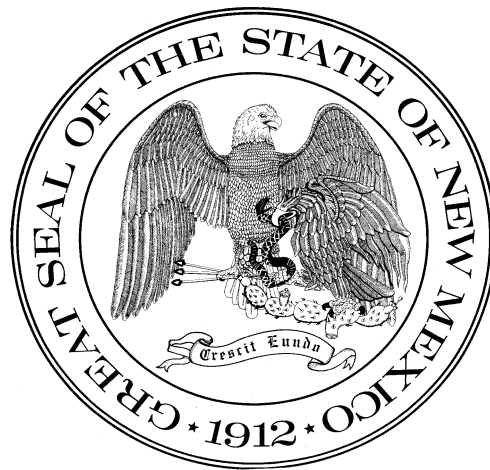


# LAND GRANT COMMITTEE

2012 INTERIM  
FINAL REPORT



New Mexico Legislative Council Service  
Santa Fe, New Mexico  
January 2013

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## **LAND GRANT COMMITTEE 2012 INTERIM SUMMARY**

The legislative interim Land Grant Committee held five meetings during the 2012 interim. Aside from its first and last meetings at the State Capitol in Santa Fe, the committee was hosted by the Village of Questa and the San Antonio del Rio Colorado Land Grant, the Anton Chico Land Grant and the Chilili Land Grant. In each of these communities, the committee was able to learn the distinctive history of the land grant and was informed of challenges faced and successes celebrated by the host communities.

The committee revisited many subjects that had been addressed in the 2011 interim, as there were critical issues relating to land grants in New Mexico that were in flux or in process during that interim. The committee received a progress report on the mapping project being undertaken by the land grant studies program of the University of New Mexico. The committee heard once again about the controversial mineral rights deal between the Tierra Amarilla Land Grant board and the Wind River Energy Corporation, a presentation that left the committee with as many questions as answers. The committee also heard an update on the status of quiet title actions involving the Cristobal de la Serna Land Grant and Arroyo Hondo Land Grant, legal actions that have inflamed passions in the Taos area. The committee received an update on litigation involving the traditional cultural properties designation on Mount Taylor, with parties on both sides of the Supreme Court argument presenting summaries of that argument and issues in the case. The committee also received an update on the once-mooted, now quashed transfer of the Marquez Wildlife Area to the Cebolleta Land Grant. Additionally, the committee received updates from the United States Forest Service (USFS) and the Abiquiu Land Grant and the Truchas Land Grant on the resolution of boundary disputes with those land grants. The USFS also discussed the memorandum of understanding that has been drawn up with the Land Grant Council that will pave the way to better cooperation and communication between the USFS and the land grant community; a key element to future cooperation is the master stewardship agreement that is being planned to facilitate coordination and communication between individual ranger districts and their local land grant communities.

Throughout the interim, the committee heard from the Land Grant Council and the Land Grant Consejo on the needs of the land grant community. The Land Grant Council also kept the committee informed of developments regarding federal legislation that would affect land grants. Representatives from the land grant studies program presented their concerns and successes. The committee served as a sounding board for disputes in certain land grants, including controversies in the Anton Chico Land Grant and the board election conflict in the San Miguel del Bado Land Grant.

The committee also heard presentations from organizations and interests that are connected to the issues surrounding the land grant community. The committee learned about the work of the New Mexico Forest and Watershed Restoration Institute at New Mexico Highlands University. The committee heard an intriguing presentation by an Albuquerque start-up called Incitor that is trying to perfect an economic model that would allow biomass to be converted into various fuels; if successful, Incitor would place small factories in rural communities in New Mexico, which could provide opportunities for land grant communities to profit from their biomass assets. The committee

heard a presentation on the challenges involved in keeping young people on the land grants. The committee opened a formal discussion on the various issues surrounding taxation and the land grants, and it expressed the intent to pursue that topic in more detail in the 2013 interim. The committee heard from the descendants of the Chihene Nde Nation, whose ancestral lands include former land grant lands, whose ancestors were part of New Mexico's land grant community and who are trying to receive federal recognition of their nation. The committee also heard from Representative Yvette Herrell regarding a proposal to cause federal lands in the state to be returned to New Mexico, a proposal that could have a significant impact on the land grant community, if implemented, as many land grants claim as their historic landholdings land that is currently under federal control.

The tours that committee members take of the land grants are a highlight of every interim for the members. This interim, the committee toured the operations of the Chevron mine that operates on the San Antonio del Rio Colorado Land Grant; most of the far-flung Anton Chico Land Grant; and the Chilili Land Grant, including recent film locations (such as that for "The Avengers") and a forest restoration project. Such tours bring the arcana of land grant law and policy to life for the members of the committee, enriching their knowledge and personalizing their experience.

The committee endorsed the following bills for the 2013 legislative session:

1. repealing Section 61-23-34 NMSA 1978, providing for notice requirement for surveys conducted on certain land grants;
2. expanding the eligibility for grants and loans under the Water Project Finance Act;
3. appropriating \$117,500 for the land grant studies program;
4. allowing the Land Grant Council to use private and federal funds to assist community land grants that are not political subdivisions of the state; and clarifying council authority to determine the status of a community land grant;
5. transferring the New Mexico Community Land Grant Registry to the Land Grant Council;
6. amending Chapter 49, Article 1 NMSA 1978 to include the Tecolote Land Grant-Merced;
7. granting political subdivision status to the San Antonio del Rio Colorado Land Grant-Merced; and
8. a joint memorial requesting that the United States Congress support the establishment of the Chihene Nde Nation of New Mexico as a recognized Native American tribe.

**2012 APPROVED  
WORK PLAN AND MEETING SCHEDULE  
for the  
LAND GRANT COMMITTEE**

**Members**

Sen. Richard C. Martinez, Chair  
Rep. Miguel P. Garcia, Vice Chair  
Sen. Rod Adair  
Rep. Eliseo Lee Alcon  
Rep. Alonzo Baldonado  
Rep. Paul C. Bandy

Rep. Eleanor Chavez  
Rep. Jimmie C. Hall  
Sen. Gerald Ortiz y Pino  
Rep. Debbie A. Rodella  
Sen. Sander Rue  
Sen. Bernadette M. Sanchez

**Advisory Members**

Sen. Carlos R. Cisneros  
Rep. Joni Marie Gutierrez  
Rep. Jim W. Hall  
Rep. Ben Lujan

Rep. Patricia A. Lundstrom  
Sen. David Ulibarri  
Rep. Richard D. Vigil

**Work Plan**

The Land Grant Committee was created by the New Mexico Legislative Council on May 9, 2012. The committee proposes to focus on the following topics:

1. a review of legislation endorsed by the committee but not passed in the 2012 legislative session: HB 45, SB 40, SB 93, SB 94, SB 121 and HJR 7;
2. natural resource extraction from land grants:
  - a) illegal extraction and prosecution and protection issues at the Anton Chico Land Grant;
  - b) personal use versus income generation for the Abiquiu Land Grant;
  - c) economic potential of large- and small-scale resource extraction at the Cebolleta Land Grant;
  - d) environmental impacts; and
  - e) collaboration with the United States Forest Service and the Bureau of Land Management;
3. taxes and land grants:
  - a) presentation by the Taxation and Revenue Department on taxation issues affecting land grant common lands;
  - b) the problem of double taxation on certain land grant properties;
  - c) complications arising from land grant lands after being within multiple counties; and
  - d) taxes on revenues generated by land grants, including:
    - i. from the sale of mineral rights; and
    - ii. leases for cellular towers, billboards, wind farms or other uses;
4. state parks and land grants:

- a) access to state park land for community and cultural events, hiring of land grant heirs to work in state parks and traditional uses of former land grant land now within the state park by the Manzano Land Grant heir; and
  - b) reversion of land not being utilized by the State Parks Division of the Energy, Minerals and Natural Resources Department to the San Miguel del Vado Land Grant;
- 5. federal legislation affecting land grants, including the Farm Bill;
- 6. a report on the continued progress of the UNM Land Grant Studies Program mapping project;
- 7. the camposanto and return of common lands in the San Joaquin del Rio Chama Land Grant;
- 8. a request that the New Mexico congressional delegation introduce a bill granting a patent to the San Antonio del Rio Colorado Land Grant (Questa grant);
- 9. UNM and the land grants, including:
  - a) progress and needs of the Land Grant Studies Program;
  - b) exploration of synergies between the Land Grant Studies Program and the UNM School of Law; and
  - c) training of lawyers and judges on land grant issues;
- 10. an update on the possibility of the Marquez Wildlife Management Area being transferred to the Cebolleta Land Grant;
- 11. an examination of issues surrounding keeping young people living on and working for the land grants;
- 12. changes required to the Engineering and Surveying Practice Act;
- 13. updates by the Land Grant Council on the work and needs of the council, including:
  - a) funding needs;
  - b) outreach to land grant communities; and
  - c) progress on outstanding issues;
- 14. an update on the Tierra Amarilla Land Grant board and the dispute over mineral rights sold to the Wind River Energy Corporation;
- 15. an update on the litigation concerning the quiet title actions involving the Cristobal de la Serna Land Grant and Arroyo Hondo Land Grant;
- 16. legislation concerning strengthening state law on quiet title actions and the filing and recording of false documents of title; and
- 17. an update to the committee from the Land Grant Consejo.

**Land Grant Committee  
2012 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
June 15	Santa Fe
July 16-17	San Antonio del Rio Colorado Land Grant (Questa)
August 23-24	Anton Chico
October 4-5	Chilili
November 13	Santa Fe

# **AGENDAS**



**TENTATIVE AGENDA  
for the  
FIRST MEETING  
of the  
LAND GRANT COMMITTEE**

**June 15, 2012  
Room 307, State Capitol**

**Friday, June 15**

- 10:00 a.m.     **Call to Order/Introductions**
- 10:15 a.m.     **2012 Legislation — Summary**  
                    —Douglas Carver, Staff Attorney, Legislative Council Service (LCS)
- 10:45 a.m.     **2012 Interim Work Plan and Meeting Schedule Development**  
                    —Douglas Carver, Staff Attorney, LCS
- 11:30 a.m.     **University of New Mexico (UNM) Land Grant Studies Program Mapping Project**  
                    —Dr. Manuel García y Griego, Director, UNM Land Grant Studies Program
- 12:15 p.m.     **Public Comment**
- 12:30 p.m.     **Adjourn**

Revised: July 11, 2012

**TENTATIVE AGENDA  
for the  
SECOND MEETING  
of the  
LAND GRANT COMMITTEE**

**July 16-17, 2012  
Questa Veterans of Foreign Wars Hall  
San Antonio del Rio Colorado Land Grant (Questa)**

**Monday, July 16**

- 10:00 a.m.     **Call to Order**  
—Senator Richard C. Martinez, Chair
- 10:15 a.m.     **Welcoming Remarks and History: San Antonio del Rio Colorado Land Grant (Questa)**  
—Esther García, Mayor, Village of Questa, and President, San Antonio del Rio Colorado Land Grant Board
- 10:30 a.m.     **Update on Request That the New Mexico Delegation Give Political Subdivision Status to Non-Patent Land Grants**  
—Esther García, Mayor, Village of Questa, and President, San Antonio del Rio Colorado Land Grant Board
- 11:00 a.m.     **Update on Tierra Amarilla Land Grant Board and the Wind River Energy Corporation**  
—Mario R. Martinez, President, Tierra Amarilla Land Grant Board
- 12:00 noon     **Lunch**
- 1:00 p.m.     **Report on the Status of Quiet Title Actions Involving the Cristobal de la Serna Land Grant and Arroyo Hondo Land Grant**  
—Daniel Cordova, Mayor, Taos  
—C. Brian James, Taos Town Attorney  
—Elden Torres, President, Cristobal de la Serna Land Grant  
—Lawrence M. Ortiz, President, Arroyo Hondo Land Grant  
—Santiago Juarez, Attorney, Arroyo Hondo Land Grant
- 2:00 p.m.     **Reexamination of Legislation Concerning Strengthening State Law on Quiet Title Actions and the Filing and Recording of False Documents of Title**  
—TBD

3:00 p.m.      **Update on Federal Legislation Affecting Land Grants**  
—Juan Sanchez, Chair, Land Grant Council, and President, Merced del Pueblo de Chilili

4:15 p.m.      **Information for Tour of Chevron Mine**

4:30 p.m.      **Public Comment**

5:00 p.m.      **Recess**

**Tuesday, July 17**

9:00 a.m.      **Tour of Chevron Mine**

12:00 noon    **Adjourn**

Revised: August 20, 2012

**TENTATIVE AGENDA  
for the  
THIRD MEETING  
of the  
LAND GRANT COMMITTEE**

**August 23-24, 2012  
Anton Chico Community Center  
Anton Chico Land Grant**

**Thursday, August 23**

- 10:00 a.m.     **Call to Order**  
—Senator Richard C. Martinez, Chair
- 10:15 a.m.     **Welcoming Remarks and History: Anton Chico Land Grant**  
—Cristobal Marquez, President, Anton Chico Land Grant
- 10:30 a.m.     **Anton Chico Land Grant: History and Contemporary Issues**  
—Cristobal Marquez, President, Anton Chico Land Grant  
—Roberto Mondragon, Treasurer, Anton Chico Land Grant
- 11:30 a.m.     **Other Anton Chico Land Grant-Related Concerns**  
—John Marquez

*Agenda Item: Approval of Minutes from July 2012 Meeting*

- 12:00 noon     **Lunch**
- 1:00 p.m.     **New Mexico Forest and Watershed Restoration Institute and Land Grants**  
—Andrew Egan, New Mexico Highlands University, New Mexico Forest and  
Watershed Restoration Institute
- 2:00 p.m.     **Biomass As an Economic Resource**  
—John Elling, Chief Executive Officer, Incitor  
—Jake Berman, Incitor
- 3:00 p.m.     **Keeping Young People on the Land Grants**  
—Juan Sanchez, Chair, Land Grant Council, and President, Merced del Pueblo de  
Chilili  
—Daniel Antonio Herrera, President, Manzano Land Grant

3:45 p.m.      **Elections in San Miguel del Bado Land Grant**  
—Oliver Perea, San Miguel del Bado Land Grant  
—Pete Aguilar, Former Special Master for San Miguel del Bado Land Grant  
Election

4:15 p.m.      **Information for Tour of Anton Chico Land Grant**

4:30 p.m.      **Public Comment**

5:00 p.m.      **Recess**

**Friday, August 24**

9:00 a.m.      **Tour of Anton Chico Land Grant**

12:00 noon    **Adjourn**

Revised: October 2, 2012

**TENTATIVE AGENDA  
for the  
FOURTH MEETING  
of the  
LAND GRANT COMMITTEE**

**October 4-5, 2012  
Chilili Sala  
Chilili Land Grant**

**Thursday, October 4**

- 10:00 a.m.     **Call to Order**  
—Senator Richard C. Martinez, Chair, Land Grant Committee
- 10:15 a.m.     **Welcoming Remarks and History: Chilili Land Grant**  
—Juan Sanchez, President, Merced del Pueblo de Chilili; Chair, Land Grant Council
- 10:45 a.m.     **Update on Litigation Involving Traditional Cultural Properties Designation on Mount Taylor**  
—Sarah Maestas Barnes, Cebolleta Land Grant
- 11:15 a.m.     **Update on Transfer of the Marquez Wildlife Area to the Cebolleta Land Grant**  
—Sarah Maestas Barnes, Cebolleta Land Grant  
—Daniel Brooks, Deputy Director, New Mexico Department of Game and Fish
- Action Item: Approval of Minutes*
- 12:00 noon     **Lunch**
- 1:00 p.m.     **Report from the Land Grant Council**  
—Juan Sanchez, Chair, Land Grant Council; President, Merced del Pueblo de Chilili
- 2:00 p.m.     **Report from the Land Grant Consejo**  
—Gilbert Ferran, Chair, Land Grant Consejo
- 2:30 p.m.     **University of New Mexico Land Grant Studies Program**  
—Dr. Manuel Garcia y Griego
- 3:00 p.m.     **United States Forest Service and the New Mexico Land Grants**  
—James Melonas, New Mexico State Liaison, United States Forest Service, Southwestern Region

4:00 p.m.      **Recognition of the Chihene Nde Nation**  
—Manny Sanchez, Chair, Chihene Nde Nation of New Mexico  
—Paul A. Martinez, Chair, Ojo Caliente Restoration Society; Immediate Past  
State Director, League of United Latin American Citizens  
—Lorraine Garcia, Member at Large, Tribal Council/Historic Record Keeper,  
Chihene Nde Nation of New Mexico  
—Maurice E. Shortt, Professor of History, Western New Mexico University

4:45 p.m.      **Public Comment**

5:00 p.m.      **Recess**

**Friday, October 5**

9:00 a.m.      **Tour of Chilili Land Grant**

12:00 noon    **Adjourn**

Revised: November 13, 2012

**TENTATIVE AGENDA  
for the  
FIFTH MEETING  
of the  
LAND GRANT COMMITTEE**

**November 13, 2012  
Room 317, State Capitol  
Santa Fe**

**Tuesday, November 13**

- 10:00 a.m.     **Call to Order**  
—Senator Richard C. Martinez, Chair
- 10:15 a.m.     **Transfer of Federal Lands to New Mexico**  
—Representative Yvette Herrell
- 11:15 a.m.     **Taxation and the Land Grants**  
—Richard Anklaam, President and Executive Director of the New Mexico Tax  
Research Institute  
—Michael O'Melia, Deputy Director, Taxation and Revenue Department

*Action Item: Approval of Minutes*

- 12:15 p.m.     **Lunch**
- 1:00 p.m.     **Update on Truchas Land Grant Boundary Resolution**  
—James Melonas, New Mexico State Liaison, United States Forest Service,  
Southwestern Region  
—Roberto Romero, President, Truchas Land Grant  
—John Chavez, Truchas Land Grant
- 1:30 p.m.     **Proposed Legislation**  
—Memorial for Chihene Nde Nation  
—Repeal of Duplicative Section of Engineering and Surveying Practice Act  
—Transferring the New Mexico Community Land Grant Registry to the Land  
Grant Council  
—Allowing the Land Grant Council to use private and federal funds to assist  
community land grants that are not political subdivisions of the state;  
clarifying council authority to determine the status of a community land grant  
—Granting political subdivision status to the San Antonio del Rio Colorado Land  
Grant-Merced



- Amending Chapter 49, Article 1 NMSA 1978 to include the Tecolote Land Grant-Merced
- Appropriation of \$117,500 for the Land Grant Studies Program

2:30 p.m.      **Public Comment**

3:00 p.m.      **Recess**

# **MINUTES**

**MINUTES  
of the  
FIRST MEETING  
of the  
LAND GRANT COMMITTEE**

**June 15, 2012  
Room 307, State Capitol  
Santa Fe**

The first meeting of the Land Grant Committee was called to order at 10:20 a.m. on June 15, 2012 by Representative Miguel P. Garcia, vice chair, in Room 307 of the State Capitol.

**Present**

Rep. Miguel P. Garcia, Vice Chair  
Sen. Rod Adair  
Rep. Eliseo Lee Alcon  
Rep. Alonzo Baldonado  
Rep. Jimmie C. Hall  
Sen. Gerald Ortiz y Pino  
Rep. Debbie A. Rodella  
Sen. Sander Rue  
Sen. Bernadette M. Sanchez

**Absent**

Sen. Richard C. Martinez, Chair  
Rep. Paul C. Bandy  
Rep. Eleanor Chavez

**Advisory Members**

Rep. Jim W. Hall

Sen. Carlos R. Cisneros  
Rep. Joni Marie Gutierrez  
Rep. Ben Lujan  
Rep. Patricia A. Lundstrom  
Sen. David Ulibarri  
Rep. Richard D. Vigil

**Staff**

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)  
Peter Kovnat, Staff Attorney, LCS  
Melissa Candelaria, Law School Intern, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts are in the meeting file.

## **Friday, June 15**

### **Welcoming Remarks and Introductions**

Representative Garcia, who chaired the meeting in the absence of this year's chair, Senator Martinez, welcomed committee members, staff and the public to the meeting and asked everyone to introduce themselves. He then noted some of the past accomplishments of the committee.

### **2012 Legislation Summary**

Mr. Carver reported that all six items of legislation endorsed by the committee for the 2012 legislative session died in committee, including HB 45, SB 40, SB 93, SB 94, SB 121 and HJM 7. Three other pieces of land grant-related legislation — HB 255, SB 107 and SB 304, all appropriations for research or planning — also failed. There was an appropriation in HB 2 of \$30,400 for the Land Grant Studies Program, under the University of New Mexico (UNM) research and public service projects appropriation.

Members of the committee noted that several of the bills were not included in the governor's message to the legislature and thus did not receive hearings before the committees of jurisdiction. The committee members expressed their concern that bills appropriating funds to land grants are often challenged based on the anti-donation clause, which may continue to be an issue with future legislation. A member of the committee said that a fiscal impact analysis of SB 107 flagged an anti-donation clause concern.

A committee member said that though HJM 7, proposing the sale or trade of real property in McKinley and Sandoval counties, did not pass in the 2012 legislative session, the issue remains an important one. Another committee member mentioned that HJM 7 needed to be amended, but time ran out before it could be fixed. The committee noted that the memorial would have facilitated negotiations between the Cebolleta Land Grant and the State Game Commission regarding the sale of the Marquez Wildlife Area. The committee stressed that any available state lands should be returned to the land grants by sale or transfer, as appropriate.

### **2012 Interim Work Plan and Meeting Schedule Development**

Mr. Carver explained that the proposed work plan was developed based on a review and identification of outstanding issues from the 2011 committee meeting minutes. In addition, input from land grant representatives, experts and staff helped to inform potential topics for the committee's consideration. Finally, Mr. Carver stated that the proposed meeting locations are land grant communities or areas that the committee has not visited in several years.

Committee members reviewed the proposed work plan. Mr. Carver and Juan Sanchez, chair, Land Grant Council, provided details of the 17 items on the plan and answered questions from the committee members.

With respect to the work plan item focusing on natural resources extractions from land grants, Mr. Carver mentioned that there have been reports of illegal quarrying of rocks in the Anton Chico Land Grant and concerns about enforcement. Mr. Sanchez added that the local sheriff's department is limited in what it can do to stop the extractions and wondered if there are existing laws to combat

illegal extraction activities on land grants.

Mr. Carver stated that the work topic addressing taxes and land grants is an issue that comes up frequently at committee meetings, explaining that an examination of double taxation on certain land grant properties and the issue of taxes on revenues generated by land grants will help bring clarity to the issue of taxation that the committee can use for future legislation. Recent discussions regarding the idea of providing land grants an exemption from property taxes would also fall under this category.

Members of the committee stated that the committee has tried previously to move legislation that would exempt certain common lands from taxes, such as for common lands used for grazing. The committee expressed the specific need for an analysis of the tax complications arising from land grants located within multiple counties.

Mr. Carver and Mr. Sanchez informed the committee that land grant heirs are interested in exploring opportunities to access state parks for community and cultural events, as well as job opportunities with state parks such as at the Manzano State Park.

Members of the committee expressed interest in receiving an update on federal legislation affecting land grants. Two bills have already been introduced. The first is an amendment to the federal farm bill that includes set-aside dollars for land grants and community and economic development. The second bill returns cemeteries located in the San Joaquín del Río Chama Land Grant back to the board of trustees to maintain. A third bill awaiting introduction would require the identification and protection of traditional use areas within land grants.

Mr. Carver mentioned that, due to committee members' interest last session in supporting training programs or conferences for lawyers and judges on land grant issues, and in the initiatives of the UNM Land Grant Studies Program, these topics are once again proposed in this year's work plan.

With regard to the possibility of the Marquez Wildlife Area being transferred to the Cebolleta Land Grant, committee members requested that the Department of Game and Fish be invited to attend the committee meeting when this issue comes up on the agenda.

Committee members discussed at length the challenges of keeping young people living on and working for the land grants. Some of the challenges identified include the lack of housing and job opportunities. Several members of the committee talked about opportunities to get youth interested and involved in land grants by connecting them with local summer youth programs, the film industry for training or jobs and the United States Forest Service (USFS) for work on land grant projects.

Several members of the committee expressed interest in learning more about the management of forest areas within land grants, the current condition and fuel loads of those forests and efforts to reduce fires and the negative effects of fires in those areas. Committee members requested that the committee invite educational institutions, the USFS and the Bureau of Land Management to discuss this topic. A committee member wondered if the land grant communities and the state's Low Income Home Energy Assistance Program could explore the idea of promoting wood vendors from land

grants to participate in the energy assistance program.

Mr. Kovnat explained that the work plan proposes work on making required changes to the Engineering and Surveying Practice Act. In the 2012 legislative session, a bill was introduced that amended a section of that act to ensure that any surveying that happens on the border of a political subdivision of a land grant must provide notice to the land grant. This bill resulted in two virtually identical sections of law being placed in the act. Committee members stressed that a cleanup bill should not change the intent of what the committee wanted to do with the original amendment. Mr. Sanchez commented that the land grants would be amenable to a cleanup bill.

Mr. Carver stated that the Land Grant Council would like to report to the committee on its outreach, funding needs and progress on outstanding issues. Further, a litigation update regarding the Tierra Amarilla Land Grant, Cristobal de la Serna Land Grant and Arroyo Hondo Land Grant is also proposed for the interim session. A member of the committee noted that litigation of these cases is important in that the cases may provide legal clarity to certain land grant issues.

Finally, Mr. Carver said that a reexamination of legislation (HJC/HB 653 from the 2011 regular legislative session) concerning strengthening state law on quiet title actions and the filing and recording of false documents of title may be necessary. HB 653 was passed by both chambers of the legislature but vetoed by the governor. Members of the committee commented that this is a critical issue to many land grant heirs who believe that there is a proper way of doing things and protocols for filing land grant documents. Committee members would like the governor's staff to discuss the objections to the bill and would like to try to take care of the objections prior to the next legislative session.

Members of the committee requested that meeting locations be identified by their official traditional land grant names. Another member requested that staff include tours of the moradas in land grants as part of meeting agendas, where possible.

Several committee members noted that the proposed July meeting dates conflict with other committee meetings and requested to reschedule the dates to July 16-17, 2012.

Representative Rodella moved to approve the work plan and meeting schedule, as amended. The motion was seconded by Senator Sanchez. The motion passed with no objections.

Representative Garcia recognized Pablo Sedillo from Senator Jeff Bingaman's office and Anna Rael-DeLay from Senator Tom Udall's office in the audience.

### **UNM Land Grant Studies Program Mapping Project**

Dr. Manuel García y Griego, director, UNM Land Grant Studies Program, thanked the committee for its consistent support of the Land Grant Studies Program since its inception in 2008. He also recognized Senator Sanchez's support for funding of the Land Grant Studies Program in HB 2. He said that with the money that was appropriated, the program is able to offer student internships and continue the land grant mapping project.

Dr. García y Griego presented the results of phase 2 of the mapping project that has been undertaken to determine the boundaries of the area of each community land grant-merced where traditional use rights can be affirmed. He explained that land grants used historic common lands for grazing animals, timber harvesting, herb gathering and religious and cultural activities, among other uses. He said the plan is to complete phase 2 by July 2012 and then begin phase 3 to incorporate additional archival information and GPS fieldwork on historic boundaries.

Dr. García y Griego reviewed four modules of traditional-use area maps. In determining the areas where traditional-use rights were exercised, he used the boundaries of historic common lands as documented in original petitions, claims presented to the Surveyor General and Court of Private Land Claims and oral histories. He explained that phase 2 involved surveying of 26 land grants with active boards of trustees. The project revealed that the total acreage loss of the 24 land grants (excluding Torreón and San Antonio del Río Colorado) was 38%.

Members of the committee commented that the mapping project was fascinating and unique in its incorporation of oral histories in the development of the maps. The committee encouraged Dr. García y Griego to present his project and findings to the public when it is completed and stressed the importance of land grants to the history and heritage of New Mexico.

A committee member asked what percentage of the land grants are forest and wilderness areas. Another committee member inquired if there were any cases where assumptions had to be made about traditional use. Dr. García y Griego answered that the Manzano Land Grant is the only case in which boundaries were drawn based on assumption of traditional use.

Members of the committee asked who conducts the surveys and what resources are needed to complete the project sooner. Dr. García y Griego said that with the funding that the legislature appropriates to his program, he hires interns who are capable of doing the work. He further stated that a priority is to survey cemeteries within land grant areas. The need for additional resources will be discussed in detail at a forthcoming meeting of the committee.

A member of the committee was interested in knowing why the survey results showed zero acreage for some land grants. Committee members were also interested in the boundary results for the Nuestra Señora del Rosario San Fernando y Santiago Grant (Truchas) and the issue of the USFS fences in the area. The committee suggested that a dialogue with the USFS is needed to resolve the issue of who has the authority to move the misplaced fences. Mr. Sanchez commented that this is also a top priority for the Land Grant Council. The committee requested an update on this issue at a future meeting.

Mr. Sedillo complimented the work of the Land Grant Studies Program and offered to help facilitate the conversation with the USFS concerning the Truchas Land Grant. He stated that Senator Bingaman has always made land grants a priority and that as he transitions out of office, he will work with Senator Udall and Congressman Ben Ray Lujan and the senator-elect to make sure that land grants remain a top priority. A member of the committee thanked Mr. Sedillo for his support and cooperation and hoped that Senator Bingaman could resolve the issues concerning the Abiquiu and Truchas land grants before he leaves office as his part of his legacy.

Dr. García y Griego ended his presentation by stating that his study helps to begin to address the socioeconomic situation of land grant heirs who should have had access to land grants all these years. He noted that future discussions on many of the land grant issues must include the rights of land grant heirs to access use. Finally, he stated that the survey is important in two respects: first, that it documents the past use of land grants; and second, that it looks at future use of the common lands.

Members of the committee inquired as to why only 26 land grants were surveyed. Dr. García y Griego said that this phase of the study involved looking only at the land grants with active boards of trustees. He further stated that while the project prioritized active land grants, the Land Grant Studies Program assists all land grants. A member of the committee asked if it would be important to indicate on the maps the legal status of each land grant. Dr. García y Griego responded that it would be difficult to do that because some land grant parcels owned in common are widely scattered.

### **Public Comment**

Lawrence M. Ortiz, vice president, Arroyo Hondo Land Grant, thanked the committee for all its work throughout the years and asked that land grant heirs be given an opportunity to tell their own story of the history of their land grants. He mentioned that the Arroyo Hondo Land Grant is in litigation concerning quiet title actions.

Mario R. Martinez, president, Tierra Amarilla Land Grant, thanked the committee for all its wonderful work and the respect it has shown for the land grants. He mentioned that the Tierra Amarilla Land Grant is a united community consisting of 77 registered members. He mentioned that the awareness campaign going on now in the Tierra Amarilla community will benefit its members.

The committee adjourned at 12:47 p.m.



**MINUTES  
of the  
SECOND MEETING  
of the  
LAND GRANT COMMITTEE**

**July 16-17, 2012  
Questa Veterans of Foreign Wars Hall  
Questa, New Mexico**

The second meeting of the Land Grant Committee was called to order at 10:41 a.m. on July 16, 2012 by Senator Richard C. Martinez, chair, at the Veterans of Foreign Wars Hall in Questa, New Mexico.

**Present**

Sen. Richard C. Martinez, Chair  
Rep. Miguel P. Garcia, Vice Chair  
Rep. Eliseo Lee Alcon  
Rep. Alonzo Baldonado  
Sen. Gerald Ortiz y Pino  
Rep. Debbie A. Rodella  
Sen. Bernadette M. Sanchez

**Absent**

Sen. Rod Adair  
Rep. Paul C. Bandy  
Rep. Eleanor Chavez  
Rep. Jimmie C. Hall  
Sen. Sander Rue

**Advisory Members**

Sen. Carlos R. Cisneros  
Rep. Jim W. Hall  
Rep. Richard D. Vigil

Rep. Joni Marie Gutierrez  
Rep. Ben Lujan  
Rep. Patricia A. Lundstrom  
Sen. David Ulibarri

**Guest Legislator**

Rep. Roberto "Bobby" J. Gonzales

**Staff**

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)  
Peter Kovnat, Staff Attorney, LCS  
Melissa Candelaria, Law School Intern, LCS  
Alexandria Tapia, Legislative Intern, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts are in the meeting file.

## **Monday, July 16**

### **Welcoming Remarks and Introductions**

Senator Martinez welcomed committee members, staff and the public to the meeting and asked that everyone introduce themselves, and he thanked the San Antonio del Rio Colorado Land Grant for hosting the meeting.

### **History of San Antonio del Rio Colorado Land Grant (Questa) and Update on Request that the New Mexico Congressional Delegation Give Political Subdivision Status to Non-Patent Land Grants**

Esther García, mayor, Village of Questa, and president, San Antonio del Rio Colorado Land Grant Board, explained that San Antonio del Rio Colorado Land Grant is the name of the original land grant, but the grant is commonly referred to as the Questa Land Grant. A top priority for the land grant is to obtain recognition as a political subdivision by the state. Mayor García thanked Senator Cisneros for introducing Senate Bill 40 (2011 legislative session) to accomplish this. She said that while the bill was vetoed by the governor, she encourages the committee to continue its efforts to assist the San Antonio del Rio Colorado Land Grant to receive political subdivision status. Mayor García noted that the New Mexico congressional delegation will not move to confirm the San Antonio del Rio Colorado Land Grant's patent without the state's recognition of it as a political subdivision.

There was discussion among the committee members regarding SB 40. The bill never reached the governor's desk for consideration; rather, it was an appropriation to the San Antonio del Rio Colorado Land Grant that was vetoed. Nonetheless, the committee agreed that the goal remains to assist the land grant to obtain political subdivision status so that it can pursue action at the congressional level to get the land grant patented. Committee members suggested that a future bill not include an appropriation in order to increase the chances of getting it through the legislative process and to the governor's desk.

#### *Motion 1*

Senator Sanchez moved that the committee endorse a bill to grant the San Antonio del Rio Colorado Land Grant political subdivision status. The motion was seconded by Representative Rodella and passed, with all voting members present voting in favor. The committee requested that the LCS draft the bill without an appropriation for approval at the last committee meeting.

There was further discussion regarding previous efforts to educate the governor about New Mexico's land grants and encourage her to support land grant bills endorsed by the committee. For example, there was a bipartisan effort by certain members of the committee last session to call and write to the governor requesting support for land grant bills. It was mentioned that it appears that land grants are not a priority for the executive branch. Further, the committee believes that it is important that the United States Congress take action to patent the San Antonio del Rio Colorado Land Grant independently from the state's action on the political subdivision issue.

LCS staff informed the committee that invitations are sent to the congressional offices inviting their attendance at committee meetings. Members of the committee stressed the importance of the

congressional representatives being present to hear the concerns of the land grant communities and suggested that a similar letter be sent to the United States Forest Service, the United States National Park Service and the New Mexico Department of Game and Fish.

Members of the committee assured Mayor García that they will support legislation granting political subdivision status to the San Antonio del Rio Colorado Land Grant. Representative Gonzales said that he would co-sign the bill when it reaches the New Mexico House of Representatives. Mayor García thanked the committee for its support.

Mayor García provided a brief history of the San Antonio del Rio Colorado Land Grant. She informed the committee that all the necessary work has been done to position the land grant to be a political subdivision. The land grant has also completed the required land grant boundary survey to be in a position to request Congress to patent the land grant. She mentioned that the completed survey incorporates the Cañon del Rio Colorado as part of the San Antonio del Rio Colorado Land Grant.

Members of the committee questioned what would happen to the Village of Questa should the San Antonio del Rio Colorado Land Grant become a political subdivision of the state; for instance, whether there are any issues related to funding both entities simultaneously. It was noted that there would be no conflict because the Village of Questa and San Antonio del Rio Colorado Land Grant are two separate entities. Further, there are currently multiple political subdivisions located within the same area that receive some level of state funding. Mayor García added that acequias located within the Village of Questa are political subdivisions of the state and receive state funding. These entities have not experienced any conflicts with regard to receiving or soliciting funding. Another committee member shared that Santa Cruz Land Grant works with the county government to build facilities as an example of how two political subdivisions can work together.

The committee concluded the discussion on the San Antonio del Rio Colorado Land Grant by thanking Mayor García for her work and advocacy on behalf of the land grant community and the Village of Questa.

#### **Update on Tierra Amarilla Land Grant Board and the Wind River Energy Corporation**

Mario R. Martinez, president, Tierra Amarilla Land Grant Board, said he was there to provide information on the ongoing issues concerning the land grant. Mr. Martinez informed the committee that the Tierra Amarilla Land Grant possesses a United States patent acknowledging it as a community land grant. Senator Martinez asked Mr. Martinez to summarize the Tierra Amarilla Land Grant Board's dealings with the Wind River Energy Corporation (Wind River), including the alleged waiver of mineral rights and the fallout resulting from that waiver.

Mr. Martinez denied any business dealings or association with Wind River. He told the committee that he and Dennis Wells, former president of the land grant board, entered into a contract several years ago with a different oil company. That contract allowed the oil company to explore for oil within the land grant, and in return, the oil company was supposed to compensate the land grant heirs at a rate of \$10.00 per barrel of oil produced. The contract also included a waiver that other oil companies would be precluded from searching for oil on the land grant. Mr. Martinez stated that he

and Mr. Wells signed the contract with the oil company believing that the land grant belonged to them.

Mr. Martinez does not recall ever reviewing or signing a waiver of the land grant's mineral rights. Responding to a question on whether the signatures on the waiver agreement between the Tierra Amarilla Land Grant Board and Wind River were legitimate, Mr. Martinez stated that the signatures were real; the signatures, however, were to another document that he and other members of the board had signed. He asserted that he would never agree to sell or sign a document waiving the land grant heirs' mineral rights because he does not possess the right to take such action. Mr. Martinez said that Mr. Wells had presented him with the waiver, but he refused to sign it after reading the terms of the agreement.

There was discussion over the organization of the Tierra Amarilla Land Grant and whether it is organized under Chapter 49 NMSA 1978 or as an independent association. Further, committee members asked Mr. Martinez what happened to the \$233,000 check issued by Wind River to the land grant board. Mr. Martinez could not definitively answer the question.

Members of the committee questioned if Wind River had done any work since it came before the committee in 2011. Mr. Martinez replied that had no knowledge regarding Wind River's work. The committee said it supports land grants but also expects them to be in compliance with the law. In response to a committee member's question about whether Tierra Amarilla Land Grant community members will pursue litigation against Wind River, Mr. Martinez said the members have not made any claims. Further, he said the community wants to protect its land, its tax base and the nine oil wells located on the land grant.

Members asked whether the federal or county governments ordered a moratorium to stop Wind River from doing work on the land grant. Mr. Martinez stated that it is difficult to work with Rio Arriba County, and the board has been denied the use of the county complex to hold its meetings. The committee asked that Wind River and Rio Arriba County be invited to the next committee meeting.

Committee members were interested in Mr. Martinez's mention of a contract that would compensate heirs \$10.00 a barrel for oil produced from the Tierra Amarilla Land Grant. The committee asked if that contract was different from the contract with the corporation.

The committee recalled Mr. Martinez's testimony in 2011 that the \$233,000 check would cover administrative purposes and legal fees. Mr. Martinez said that he never saw the check, but when he learned about a check being deposited, he instructed Mr. Wells to return the check.

Daniel O. Martinez, vice president of the Tierra Amarilla Land Grant Board, supported Mario Martinez's statement that he never saw the check and the controversy stemmed from Mr. Wells' unilateral actions. Members of the committee said the fact remains that there is a signed and notarized contract between Wind River and the Tierra Amarilla Land Grant Board, as well as a \$233,000 check that was deposited by the land grant board.

Members of the committee suggested that Mario Martinez seek assistance from the state auditor or attorney general regarding the contract and in the event that Wind River begins work as authorized under the contract. It was also noted that if there is fraud involved, the committee has the ability to enlist the involvement of the Attorney General's Office. Mario Martinez indicated that the land grant board would be interested in pursuing the matter of potential fraud. The committee requested staff to research the appropriate investigating authority to address this matter.

Members of the committee inquired about the board's bank account and which board member accepted the check from the corporation. Mario Martinez was unable to provide an answer, but he asserted that it was Mr. Wells, the former president of the board, who acted alone and without the knowledge of the rest of the board.

Dr. Manuel Griego y Garcia of the University of New Mexico (UNM) Land Grant Studies Program was invited to clarify the status of the Tierra Amarilla Land Grant for the committee. He said it is clear that the Tierra Amarilla Land Grant is a community land grant. It was erroneously listed as a private land grant in earlier documents. He suggested that for the purposes of the committee, it may be treated as a land grant; however, in a court there may be an issue. Dr. Griego y Garcia said it is not unusual to have land grants wrongly classified.

The committee advised Mario Martinez to bring to the next meeting all of the documents, including the patent, the original contract with the corporation and the check issued to the board. Further, the committee asked Mario Martinez to bring the other board members with him to the meeting. In the meantime, the committee requested that LCS staff draft a letter to the attorney general and the state auditor requesting them to look into the issues with the Tierra Amarilla Land Grant.

The committee asked how often the land grant board meets, how it conducts elections and if it has established bylaws. Mario Martinez said the land grant board has not met, and elections have not been held, but that it has adequate bylaws. The committee reminded the land grant board to adhere to the law as it moves forward. The committee ended the discussion with plans to revisit this issue at the August meeting.

### **Report on the Status of Quiet Title Actions Involving the Cristobal de la Serna Land Grant and Arroyo Hondo Land Grant**

Darren Cordova, mayor of Taos, told the committee that he is committed to supporting the land grants' efforts to preserve their lands and mentioned that he is an heir to the Cristobal de la Serna Land Grant. With regard to the Arroyo Hondo Land Grant, Mayor Cordova reported that a consensus was reached among the parties to request a declaratory judgment to remove the cloud over the titles, which the district court granted. As a result of the court's decision to void the deeds at issue, it is freeing up properties by allowing owners to obtain title insurance on their properties. There are no other claims by the Cristobal de la Serna Land Grant at this time. Mayor Cordova ended his presentation expressing his support of land grants maintaining their common lands; however, for titles that have been purchased or conveyed to property owners, he believes that there are equitable remedies for land disputes that also preserve the credibility and authority of land grants.

Eliu E. Romero, an attorney with much experience working on land grant issues, suggested that all land grants in Colorado, California, Arizona and New Mexico band together and file suit against the federal government for breaking the Treaty of Guadalupe Hidalgo. He suggested that the land grant heirs form a corporation to pool all the existing land grants, develop the lands and divide profits among the heirs. He surmised that the issue of quiet titles will remain until the federal government acknowledges the rights given to land grant heirs.

Brian James, attorney for the Town of Taos, focused his comments on House Bill 653 (2011 legislative session), which would have prohibited a person from knowingly preparing or presenting for recording a title document containing a false claim or title against real property or interest in real property. Mr. James requested that the committee consider a different approach to addressing false claims, such as the one taken by the State of Michigan that allows private individuals to file liens against property owners rather than impose criminal penalties.

Lawrence Ortiz, president of Arroyo Hondo Land Grant, stated that he is unable to provide details on the quiet title action involving approximately 5,000 homes in Taos. The Arroyo Hondo Land Grant has a patent issued by the federal government. He elaborated that the land grant board asked the land grant members to bring their titles or any documents that prove their right to the land grant. He maintains that there are those who reside on land grants within Taos County who do not have clear title to their properties. Mr. Ortiz thanked the committee for the opportunity to address the members and mentioned that he will try to bring the land grant's lawyer to present at a subsequent meeting.

Francisco "El Comanche" Gonzales of the Cristobal de la Serna Land Grant explained that the land grant was confirmed as a private land grant by the Court of Private Land Claims and that this designation has led to the privatization of common lands. Without anyone left to protect the remaining common lands, illegal trash dumping and overgrazing of cattle have increased. He noted that a recent proposal to build another subdivision in the area is an effort by developers to break up the common lands and divide the community in order to pursue economic interests. He added that while there may be benefits to economic development, there are also negative impacts, such as the increased traffic and damage to sensitive areas like the watering holes located on land grants.

The Cristobal de la Serna Land Grant is looking at filing quiet title deeds on properties south of the Francisco Martinez ditch. The land grant board enlisted the help of an attorney to determine which areas are common lands and to file claims for those areas. Mr. Gonzales discussed the difficult task of determining who has title to the lands within the Cristobal de la Serna Land Grant because earlier surveys showed boundaries that were incorrect. Finally, Mr. Gonzales said that a DVD highlighting the history of the Cristobal de la Serna Land Grant is in the making and copies will be shared with committee members at a later date.

Members of the committee told Mr. Gonzales that Mayor Cordova reported that the Cristobal de la Serna Land Grant board withdrew its liens on the properties in the Town of Taos and that this was a mutual decision by both parties. Mr. Gonzales responded that while the lifting of the clouds over the titles may have been beneficial to the town, the Cristobal de la Serna Land Grant based its decision to withdraw the liens to allow more time to conduct another survey of the common lands.

Based on the results of that survey, the Cristobal de la Serna Land Grant may decide to re-file claims to the common lands located within the town. He asserted that land title companies have political influence over the executive and legislative branches that has resulted in legislation that benefits the companies or in the vetoing of bills that would assist land grants to stop encroachment and squatting on land grant lands.

The committee asked Mayor Cordova whether any claims have been filed for property south of the Martinez ditch. He answered that the Cristobal de la Serna Land Grant board agreed to give up land titles north of the ditch. Although no claims have been filed for areas south of the ditch, the mayor is concerned about the private homes located there. Mayor Cordova asked how those property owners could protect their titles to the land. Further, with regard to the Cristobal de la Serna Land Grant withdrawing its claims, Mayor Cordova said it was probably because it realized that existing law would have favored the Town of Taos. On this point, it was mentioned that the reason why the governor vetoed HB 653 is because she believed that current law already addresses clouding of titles. According to Mayor Cordova, the real issue is with the federal government's breach of the Treaty of Guadalupe Hidalgo and the need for compensation to the land grants for that breach.

Members of the committee were interested in potential solutions for clearing quiet title claims, including the mayor's recommendation for legislation allowing private individuals to file liens against property owners. The discussion turned to whether the true problem is with the clouding of titles or with the warranty deeds. The committee inquired about the tax status of common lands. Mr. Gonzales explained that the common lands are taxed based on how the land is used.

Mr. Gonzales informed the committee that the hot springs located within the Cristobal de la Serna Land Grant common lands were recently transferred to the Pueblo of Taos. Initially, the private donor proposed to convey 150,000 acres of land and hot springs to the Cristobal de la Serna Land Grant community. However, at the time the land grant board was not incorporated and could not accept the donated land. Taos County did not want the land either because it lacked funds to purchase or maintain the land. The Taos Land Trust ended up purchasing the land and, in turn, conveyed the hot springs to the Pueblo of Taos. Mr. Gonzales added that the land grant community did not have money to hire an attorney to file a stay until the land grant board could organize and hold a meeting on this issue.

Members of the committee asked what was the purpose for the Pueblo of Taos wanting the hot springs. Mr. Gonzales responded that the nonprofit Taos Land Trust needed a steward to take care of the land, and the Pueblo of Taos offered to serve in that role. A committee member noted that a similar situation happened in Cebolleta, in which a local tribe was given 150,000 acres of land and the Cebolleta Land Grant did not receive any lands. The committee asked if the property, including the hot springs, was part of the 200,000 acres of common lands of the Cristobal de la Serna Land Grant. Mr. Gonzales answered that it was part of the common lands.

Members of the committee returned to the discussion of private property owners of lands formerly belonging to common lands. Some committee members felt that it is unfair to take back lands that were rightfully purchased by private individuals or to ask families to leave their homes because of the alleged taking of, or encroachment on, common lands. Members of the committee

said that there has to be a balancing of interests; on one hand, is the right of a private landowner to keep, buy or sell the land, and on the other, the right of land grants to protect and preserve common lands. Mr. Gonzales reacted to the discussion by stating that just because people acquire land and put their names on the titles does not make them the owners, especially if the land is acquired through fraudulent means. For this reason, the Cristobal de la Serna Land Grant is asking for help to address fraudulent land claims of common lands, according to Mr. Gonzales.

Committee members agreed on the need for a concerted effort by the land grants to reacquire lands or get compensation for lands that have been lost, similar to collaborative efforts undertaken by Native American tribes, pueblos and nations. It was noted that if land grants want to use their common lands for economic development, it should lease the land rather than sell it in order to preserve land grants for future generations. The committee acknowledged the successes in assisting land grants to restore lands via numerous mechanisms.

Committee members expressed interest in exploring alternatives to HB 653, including the suggestion to give notice to property owners of liens filed. Additionally, committee members are interested in establishing a legal and educational fund to assist land grant communities with legal battles over common lands or to support initiatives aimed at educating the public about land grants. Another suggestion was to ask Congress to establish a trust fund for land grants. The committee inquired as to the land grants' top priorities it could help advocate for in the upcoming legislative session. Several ideas were proposed, such as providing a vehicle for collaboration with counties and other governmental entities to protect land grants, funding to support collaborative efforts by the land grants and lineas and funding to purchase lineas. It was mentioned that funding for the UNM's Land Grant Studies Program remains a priority.

### **Reexamination of Legislation Concerning Strengthening State Law on Quiet Title Actions and the Filing and Recording of False Documents of Title**

Ernesto Romero, an owner of a real estate company doing business in Taos for over 30 years, and his son, Paul Romero, president of the Taos County Association of Realtors and a member of the Realtors Association of New Mexico, made a presentation to the committee on the law concerning filing of false documents of title. Mr. Romero noted that he and his family are members of the Cristobal de la Serna Land Grant, and he is personally committed to furthering the interests of the land grant. He became involved in the quiet title issue because he believes these actions hinder the free flow of commerce, generally, and affect property owners' ability to purchase title insurance on their properties, specifically.

Paul Romero said that from the Realtors' standpoint, HB 653 does not directly affect land grants. He likes the suggestion of amending the bill to eliminate criminal penalties. He stated that it was never the intent to impose criminal sanctions, and it was the Senate Judiciary Committee that added those provisions. Paul Romero maintains that the intent of the bill was to preserve private property rights. He suggested that before the committee pursues legislation for the upcoming session, it should wait to see what the court decides on this issue.

Paul Martinez, a land grant activist, said that land grants hold the title to the property and are the private property owners, while others only occupy the land. He told the committee that he has



done extensive research on the history of land grants and has authored books on the subject. He said that private landowners do not have clear titles to the lands they occupy and possess only warranty deeds. He stated that the cases before the federal district court have to do with the individuals concerned with making a profit and participating in commerce.

### **Update on Federal Legislation Affecting Land Grants**

Juan Sanchez, chair of the Land Grant Council, and president of the Merced del Pueblo de Chilili, gave an update on several pieces of federal legislation affecting land grants. His office worked with the New Mexico congressional delegation on the bills.

First is a bill to be introduced by Congressman Ben Ray Lujan that deals with the San Joaquin de Chama Land Grant. The bill requests the secretary of agriculture to return a cemetery located within a designated wilderness area to the control of the land grant's board. The San Joaquin de Chama Land Grant is in communication with Congressman Lujan to finalize the bill. Next is an amendment to the federal Farm Bill introduced by Senator Tom Udall. The amendment directs the secretary of agriculture to set aside \$10 million for rural development to help land grants with economic and community development and entrepreneurship, among other initiatives. Although the senator's amendment failed to pass on a recent Senate floor vote, an identical amendment will be introduced by Congressman Lujan when the Farm Bill reaches the U.S. House of Representatives. Committee members asked Mr. Sanchez to give them an in-depth overview of the Farm Bill at a future date.

Committee members wondered about the status of a bill introduced by Senator Jeff Bingaman that would create a trust fund for land grants. Mr. Sanchez said that the idea was to establish a trust fund and to have the interest from the fund go to land grants. Ultimately, it appears to be more feasible to request set-aside funding rather than create the trust fund for land grants.

Another measure of interest to the congressional delegation is the use of lands currently held by the federal government that were once part of land grants. To buttress the argument for allowing land grant heirs to use such federal lands, there is a need to identify the traditional land uses and develop accurate maps. To facilitate that effort, phase 2 of the UNM Land Grant Studies Program mapping project is under way. Mr. Sanchez also mentioned the need to educate and convince the majority of Congress to support a bill to allow traditional use of federal lands.

Committee members asked about the definition of "heirs" as used in the proposed legislation. Mr. Sanchez responded that the language allows the board of trustees of each land grant to determine who the heirs are to the historical land grant boundaries.

Committee members wondered if it would be appropriate if the state established a trust fund or a set-aside fund for land grants and have Congress commit funds to the trust.

### *Motion 2*

Representative Rodella moved to write a letter to the congressional delegation to inquire about this possibility. Senator Sanchez seconded the motion, which was passed without objection.

Committee members asked whether the Land Grant Consejo could put together a brief on the history and traditional uses of the Carnuel and Rio Colorado land grants. Mr. Sanchez noted that traditional use of common lands, such as grazing, hunting and fishing, is a question that recurs. Committee members suggested that the committee invite the New Mexico Department of Game and Fish to discuss its process for issuing permits that may interfere with traditional use activities of land grant heirs.

Finally, committee members wanted to know the status of the memorandum of understanding (MOU) between the U.S. Forest Service and the Truchas Land Grant. Mr. Sanchez responded that it is difficult to schedule a meeting with the U.S. Forest Service supervisors in that area, though the land grant was successful in meeting with the district ranger and the southwest regional supervisors. The committee requested LCS staff to draft a letter to the congressional delegation asking what it is doing to facilitate the joint memorial and MOU, along with an inquiry into the status of the illegal fence in Abiquiu.

### *Motion 3*

Representative Rodella moved to have a letter drafted to the congressional delegation regarding the MOU. Representative Garcia seconded the motion, and the motion was passed without objection.

The committee asked Mr. Sanchez to provide copies of the Land Grant Council's previous letters to the congressional delegation to support its inquiry as to the reason for the lack of response to these outstanding land grant issues.

### **Information for Tour of Chevron Mine**

Mr. Carver gave the committee details concerning the tour of Chevron Corporation's Questa Mine on the following day.

### **Public Comment**

Jerome Padilla, president of the Town of Atrisco Land Grant Board of Trustees, commented that land grant communities have been stripped of their wealth in terms of loss of land base. He believes in a proper chain of title and favors criminal penalties for those who commit fraud by filing false claims. He said it is criminal to take away a land grant community's common lands and asked the committee to consider the risks associated with changing common land boundaries. He thinks it would be difficult to ask people to leave their properties, but the properties originally belonged to the land grants. He commented that land grant community members should elect officials who can represent their interests, and he hopes the land grants' issues are resolved during his grandson's lifetime.

Patricia Rael, a local land grant heir, reflected on the day's discussions. She said that it makes sense that if land grants are taken away from the heirs, the heirs should be compensated for the taking. She holds lands that belonged to her parents and said that if someone ever placed a lien on her land, it would devastate her. Though it would be heartbreaking to have to leave her land, she

believes that the true owners should be compensated somewhere, somehow, and that it is fair payment.

Ann Galloway, a property owner in Santa Fe, requested assistance with her home loan as she is having trouble with her bank and wants to avoid foreclosure on her home. The committee suggested that she contact the New Mexico Attorney General's Consumer Protection Division for assistance.

Shirley Romero, a member of the San Luis Land Grant, informed the committee that New Mexico and Colorado are working on designating a portion of the Sangre de Cristo Land Grant as a state park. Regarding earlier discussions on private property and false title claims, she thinks that regardless of how a person comes into possession of property that was once part of land grant lands, the heirs of that land should be compensated. The issue, then, is how to calculate how much each heir is to be compensated. She personally would not take any money but would want the land that was stolen from her to be returned. She likes the idea of creating a legal defense fund for the land grants, but she sees a related challenge of raising money for the fund. Assistance with legal research and with the courts would be welcomed. She encouraged the committee to pass legislation to require schools to include lessons about land grants and acequias in their curricula.

Carmen Quintana, a Santa Fe resident and land grant heir, attended the meeting to find out which individual or entity in Questa sold water rights to Santa Fe County. A committee member answered that it was the Top of the World Farm that sold its water rights in the Sangre de Cristo Land Grant. Mayor García added that the Top of the World Farm sold its water rights to two individuals in Texas, who then sold it to Santa Fe County. Ms. Quintana disagreed with Congressman Lujan's bill that would create a special legal fund for land grants. Rather than a legal fund, she believes it would be better to return the land grant's taxing authority.

Elias Espinoza, a member of the Arroyo Hondo Land Grant, shared that he is a Vietnam veteran and has also fought for the land grants. He said that in the 1980s, the land grant fought the developers from building on its lands and won. He said that while the land grant community has not reacquired all the land it has lost, it will continue to work toward this goal. He encouraged the members to make the right decisions on the land grant issues before the committee.

### **Recess**

The committee recessed at 4:03 p.m.

### **Tuesday, July 17**

#### **Tour of Chevron Mine**

The committee reconvened at 9:00 a.m. for a tour of the Chevron Corporation's Questa Mine. Prior to the tour, Dave Patridge, president for Chevron Mine, and his staff provided information about the mine, explained Chevron's safety guidelines and stop-work authority and conducted a short hazard training.

The tour ended, and there being no further business, the committee adjourned at 1:00 p.m.

**MINUTES  
of the  
THIRD MEETING  
of the  
LAND GRANT COMMITTEE**

**August 23-24, 2012  
Anton Chico Community Center  
Anton Chico, New Mexico**

The third meeting of the Land Grant Committee was called to order at 10:19 a.m. on August 23, 2012 by Senator Richard C. Martinez, chair, in the Anton Chico Community Center.

**Present**

Sen. Richard C. Martinez, Chair  
Rep. Miguel P. Garcia, Vice Chair  
Rep. Eliseo Lee Alcon  
Rep. Alonzo Baldonado  
Rep. Eleanor Chavez (8/23)  
Sen. Gerald Ortiz y Pino  
Rep. Debbie A. Rodella  
Sen. Sander Rue

**Absent**

Sen. Rod Adair  
Rep. Paul C. Bandy  
Rep. Jimmie C. Hall  
Sen. Bernadette M. Sanchez

**Advisory Members**

Sen. David Ulibarri

Sen. Carlos R. Cisneros  
Rep. Joni Marie Gutierrez  
Rep. Jim W. Hall  
Rep. Ben Lujan  
Rep. Patricia A. Lundstrom  
Rep. Richard D. Vigil

**Guest Legislators**

Rep. Sandra D. Jeff (8/23)  
Rep. George Dodge, Jr. (8/23)

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)  
Peter Kovnat, Staff Attorney, LCS  
Theresa Rogers, Legislative Intern, LCS

**Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file.

## **Thursday, August 23**

### **Welcoming Remarks and Introductions**

Senator Martinez welcomed committee members, staff and the public to the meeting and asked that everyone introduce themselves, and he thanked the Anton Chico Land Grant for hosting the meeting.

### **Welcoming Remarks and History: Anton Chico Land Grant**

Cristobal Marquez, president, Anton Chico Land Grant, welcomed the committee members and introduced the members of the land grant's board of trustees. He noted that the land grant has between 1,200 and 1,500 registered members.

### **Anton Chico Land Grant: History and Contemporary Issues**

Mr. Marquez and Roberto Mondragon, treasurer, Anton Chico Land Grant, described the history of Anton Chico. They noted that Anton Chico has been responsible for helping to reorganize the land grants, starting in 1995. The history of the mercedes dates to Spain and Juan de Oñate. The first application for a land grant was made in 1817. The locals have struggled to maintain their grants, particularly when battling litigation in the judicial system from settlers after 1848.

Mr. Marquez and Mr. Mondragon provided a map showing the historical boundaries of the Anton Chico Land Grant. Mr. Marquez explained that land grant borders have changed over time as land was sold to pay lawyers' fees and taxes; a portion of the land sold became part of the Santa Fe National Forest. Anton Chico is trying to regain some of this land through litigation. Members of the Anton Chico Land Grant listed five requests for the consideration of the committee:

1. that the land grant be given preference in land rights, such as grazing, after the current lease maintained by the United States Forest Service (USFS) concludes. The USFS currently leases the land for grazing, but not to members of Anton Chico;
2. that there be established a fair grazing rate tax for all nonresidential or commercial land;
3. that the land grant receive help from the Natural Resources Conservation Service and the Office of the State Engineer to build and maintain unused wells and stock ponds for cattle. These stock ponds are invaluable in times of drought;
4. that the land grant receive funds to build a regional wastewater system. A regional mutual domestic water system is currently in place, the Sangre de Cristo Domestic Water Consumers Association; and
5. that the legislature take action to stabilize the composition of county commissions. The needs of the land grant are not represented fairly because of the current representation structure.

Commissioners are elected in each district, but they are overpowered once in office by the higher population of commissioners of the rest of the county.

Anton Chico has met with numerous corporations in hopes of increasing economic development on the land grant, particularly with renewable energy. Harry Barnes, consultant, Tierra Merced, LLC, addressed the committee regarding various renewable energy projects being pursued by Anton Chico. Mr. Barnes founded Tierra Merced in 2005 to assist in administering capital projects on the land grants. Anton Chico is rich in potential natural resources, such as solar, wind and natural gas.

Anton Chico contracted with Tierra Merced in 2005 to assist in negotiations with Eurus Energy and to research other renewable energy development potential. Eurus' Project Granada had proposed a 300-megawatt facility to be located on the Anton Chico Land Grant, including compensation provisions based on dollars per acre. The project was terminated by Eurus when complications regarding transmission capacity ownership, transmission systems upgrades and Public Service Company of New Mexico regulatory issues surfaced. The complications caused Eurus to rescind its offer without negotiation, highlighting the complications of exploiting renewable energy resources on land grants.

Mr. Barnes noted three potential action items for the committee: (1) support for a resource study; (2) priority access to state-supported projects, such as those funded by the New Mexico Renewable Energy Transmission Authority; and (3) the promotion of land grant resources for future projects. Infrastructure upgrades and legislative support would enhance Anton Chico's economic capacity.

Anton Chico is also addressing illegal dumping on the land grant by establishing dumpster sites across the land grant. In addition, the land grant is discussing plans concerning the community library and cemetery and a new school.

Anton Chico consists of 105,000 acres of land, five acequias, a school, churches, cemeteries, a senior center, a health clinic, a fire station, a legion hall, a rodeo, a horse training track, community centers and a library. Anton Chico has good working relationships with the county commissions of the two counties it straddles and the Natural Resources Conservation Service.

In response to a committee member's questions regarding high school education in the land grant, Mr. Mondragon explained that high school students attend high schools in either Las Vegas or Santa Rosa.

A member of the committee asked what concerns corporations have that turn them away from doing business on the land grant. Mr. Mondragon responded that it is generally a lack of familiarity with land grant history and law that are the biggest barriers. Outreach and education on land grant business opportunities would be beneficial.

A member of the committee asked a question regarding the taxation of grazing land and herds. In some regions of the land grant, taxation occurs per head of animal grazing on the land while in

other regions, members of the land grant are taxed based on the area of land upon which the herd grazes. Some heirs are taxed both per head and per acre.

The Tres Amigas SuperStation project has regional implications that could benefit Anton Chico if implemented, but Mr. Barnes believes the objectives of Tres Amigas are ambitious. The load of the superstation would be 5,000 megawatts, potentially up to 10,000 megawatts. Infrastructure upgrades, among other improvements, need to be made before the superstation becomes reality.

A committee member asked who owns the land lost by the land grant in the past. Mr. Mondragon stated that 23,000 acres of forest were lost through tax delinquency; part of the land lost is now a state forest and the rest belongs to San Miguel County. The committee believes that if the land cannot be returned to the land grant, then traditional uses should be a priority. Members from Anton Chico stated that if no reversion is possible, they will ask New Mexico Highlands University, a land grant university, to use the land to build a satellite campus.

A committee member asked if unused land reverts back to the land grant after the lease on the land ends, such as lands used for a school or library. Mr. Mondragon answered that the lands do revert back, and they are sold in some cases.

A committee member stated that the legislature will assist with the vacant library if capital outlay is available. Land grants are able to create their own zoning areas to accommodate a developer, with approval of the Department of Finance and Administration's Local Government Division.

A committee member asked how many heirs to the land are alive today. There is no clear answer, but Anton Chico formed a genealogy committee that will begin to generate this number, including those who have sold the land to pay taxes.

Committee members also discussed the library volunteer staff, possible tourism opportunities, self-imposed taxation to spur economic development and historic preservation.

### **Other Anton Chico Land Grant-Related Concerns**

John Marquez, the husband of an Anton Chico Land Grant heir, discussed certain concerns some of the heirs of the Anton Chico Land Grant have. He asked for guidance in navigating the corruption among those in power on the land grant. Heirs are unsure of whom to approach in asking for guidance through complicated issues. The most common response from the governing board is litigation. The governing board was elected to help solve the questions, not recommend litigation.

Mr. Marquez stated that the Open Meetings Act is not followed and proper meeting protocol is neglected, which obstructs the ability of the heirs to participate in the meetings. The board does not take action on areas of concern brought forth by heirs, such as illegal dumping and fence cutting. He also stated that heirs have concerns regarding corruption surrounding voting, deeds on land, the federal Freedom of Information Act, finances of the land grant and communication. He gave an example of members of a family that have been trying to build a fence on their property for 40 years

because they have not been given a deed; they cannot receive their deed, however, because they do not have a fence. Problems such as these have not been addressed by the governing board. Mr. Marquez asked that the legislature help the land grant solve these problems.

Members of the committee noted that many land grants have similar internal issues and that although the legislature cannot intervene in the affairs of the land grants, members can give guidance.

### **New Mexico Forest and Watershed Restoration Institute and Land Grants**

Dr. Andrew Egan, New Mexico Highlands University, New Mexico Forest and Watershed Restoration Institute (the Institute), discussed the background of the Institute. He stated that the Institute's enabling legislation may be found in the federal Southwest Forest Health and Wildfire Prevention Act of 2004. The Institute has sister programs at Colorado State University and Northern Arizona University. The Institute addresses numerous watershed issues throughout the state, the mitigation of catastrophes and progress toward a restoration-based economy and guides interest and discussion regarding restoration development. The Institute facilitates the Estancia Basin Watershed and Forest Health Experimental Monitoring Project, the Greater Rio Grande Watershed Alliance and the Gallinas Partnership. The Institute implements projects and meets tangible goals rather than discussing and setting agendas. The Institute works with local tribes and partners with Santa Fe Community College to help northern tribes. The tribes provide monetary resources, and the Institute provides training and help with catastrophe-related cleanup.

A member of the committee asked if there have been studies on the impact that traditional land use has had upon fire mitigation in forested lands. Dr. Egan responded that he is not aware of any such study but that such a study would be beneficial. Dr. Egan also stated that the Institute is researching potential markets for byproducts of forest clearing. The Institute is considering a proposal from the federal government regarding wood chip conversion to fuel and gasification.

### **Biomass As an Economic Resource**

Dr. John Elling, chief executive officer, Incitor, and Jake Berman, vice president, business development, Incitor, explained to the committee that Incitor is "commercializing chemical processing breakthroughs to inexpensively convert cellulosic biomass into high-value chemicals and fuels". Incitor is headquartered in Albuquerque, employs 15 New Mexicans and has strong venture capitalist backing. Incitor's process is focused on forest products such as wood pellets. The proprietary piece of Incitor is the process of creating the fuel. Incitor dissolves biomass in hydrochloric acid to create an intermediate product that digests in acid; multiple types of waste can be used to create biofuels with Incitor's process.

The representatives from Incitor told the committee that 2% of the \$400 billion energy market is currently sourced from renewable products, but that proportion is expected to grow to 25% by 2025. Large-market opportunities for Incitor are commodity chemicals and liquid fuels. Incitor is working to develop these chemicals as a response to the political mandate to replace traditional fuel with biofuel. Incitor can produce 500,000 gallons of biofuel per year for \$8.5 million, a significantly smaller cost than traditional fuel production. Incitor has the potential to garner United States Department of Agriculture loan guarantees, receive federal new market tax credits, apply for federal



grants and take advantage of other numerous economic incentives to build Incitor's first commercial plant in Milan, New Mexico. Currently, Incitor is in the process of fulfilling multiple local memoranda of understanding.

In response to a committee member's question, Dr. Elling and Mr. Berman explained that there are ways to reduce the waste byproduct created by Incitor's product through the use of hydrochloric acid and solvents. There will be some minimal waste, principally ash. Industry has found that burning waste emits as much pollution as burning coal. Producing a liquid transportation fuel is the green alternative to oil fuel, a renewable resource that captures carbon dioxide.

Incitor has requested help from the Economic Development Department to take advantage of all tax credits in the state. The energy market is competitive; all avenues of funding and partnership have been exhausted.

Dr. Elling and Mr. Berman also explained that Incitor's production of biofuel must be regional, as it is not profitable to transport the biofuel over 60 miles. This should be beneficial for local economies, as these plants will create highly skilled, well-paying jobs, as well as secondary jobs gathering and treating agricultural products to supply the plant. Projected revenue of the initial plant will be \$1.7 million after all expenses, including depreciation.

### **Keeping Young People on Land Grants**

Juan Sanchez, chair, Land Grant Council, and president, Merced del Pueblo de Chilili, explained to committee members that each land grant struggles with ways to keep young people in its community. Opportunities for young people to engage with the land grants are the best way to maintain the land grants with the future, as well as to enable the establishment of businesses.

Daniel Antonio Herrera, president, Manzano Land Grant, thanked the committee for listening to land grant members' statements and assisting them in bettering the state of the land grants. In the past, land grant members struggled to be heard, but the process now is much easier.

### **Elections in San Miguel del Bado Land Grant**

Oliver Perea, San Miguel del Bado Land Grant, stated that the committee and those who have been working on land grant issues have made great progress. The lack of knowledge and understanding from voters and heirs can be fixed by a long campaign season. The botched election at San Miguel del Bado shows that there is ignorance around the laws governing these lands. More education of board members is critical in assuring fair and accurate elections.

Mr. Perea described the mismanaged San Miguel election. The election was scheduled to occur in December, but it was delayed until August. The person coordinating the election was given multiple chances to submit his report detailing those running for office, but he failed to do so. Three days before the election, he notified Mr. Perea that there were two out-of-district candidates running. Despite contacting numerous attorneys and state agencies, Mr. Perea received no assistance. The board of San Miguel del Bado suspended the election so there would be no violation of law; as a result, the election controller is contemplating suing Mr. Perea.

Numerous heirs are not aware of their heirship and the large untapped resources on the land grants. Those who do live on the land grants must be better educated on current events and better trained in land grant procedures. Mr. Perea stated that training should be held in communities such as the San Miguel Land Grant and Anton Chico, not just in Santa Fe or Albuquerque; the training sessions should be a yearly requirement for those in office.

Pete Aguilar, former special master for a San Miguel del Bado Land Grant election, advised the committee that there was also an illegal election in 2004. The district court disqualified the election and named him a special master to oversee the reelection. Mr. Aguilar stated that knowledge of land grant processes and proper coordination with the district and county clerks for resources are necessary. There should be three to four informational meetings with the heirs to update them on current events. Many meetings become violent, a reality that needs to be resolved.

A committee member stated that there are differences between physical residency and intentional residency, noting that the New Mexico Supreme Court issued a ruling on these types of residency. Statutes are largely silent on land grant election codes, classifying land grants as "other electoral special districts". The committee requested that Secretary of State Dianna J. Duran attend a committee meeting this interim to discuss the Election Code and land grants.

A committee member noted that, in the future, contacting a legislator may also help in difficult situations, rather than relying on the judicial system.

### **Information for Tour of the Anton Chico Land Grant**

Mr. Mondragon gave the committee details of the following day's tour of the Anton Chico Land Grant.

### **Public Comment**

Mr. Marquez stated that the land grants need help in running elections and a contact to call upon with questions or problems.

### **Recess**

The committee recessed at 5:00 p.m.

### **Friday, August 24**

### **Tour of the Anton Chico Land Grant**

The committee reconvened at 9:00 a.m. for a tour of the Anton Chico Land Grant. The tour ended, and, there being no further business, the committee adjourned at 1:30 p.m.

**MINUTES  
of the  
FOURTH MEETING  
of the  
LAND GRANT COMMITTEE**

**October 4-5, 2012  
Chilili Sala  
Chilili, New Mexico**

The fourth meeting of the Land Grant Committee (LGC) was called to order at 9:59 a.m. on October 4, 2012 by Senator Richard C. Martinez, chair, in the Chilili Sala.

**Present**

Sen. Richard C. Martinez, Chair  
Rep. Miguel P. Garcia, Vice Chair  
Rep. Eliseo Lee Alcon  
Rep. Alonso Baldonado  
Rep. Eleanor Chavez (10/4)  
Rep. Jimmie C. Hall  
Sen. Gerald Ortiz y Pino  
Rep. Debbie A. Rodella  
Sen. Sander Rue  
Sen. Bernadette M. Sanchez

**Absent**

Rep. Rod Adair  
Rep. Paul C. Bandy

**Advisory Members**

Sen. Carlos R. Cisneros (10/4)  
Rep. Patricia A. Lundstrom  
Sen. David Ulibarri

Rep. Joni Marie Gutierrez  
Rep. Jim W. Hall  
Rep. Ben Lujan  
Rep. Richard D. Vigil

(Attendance dates are noted for members who were not present for the entire meeting.)

**Staff**

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)  
Peter Kovnat, Staff Attorney, LCS  
Alex Tapia, Legislative Intern, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

## **Thursday, October 4**

### **Call to Order**

Senator Martinez welcomed everyone to the meeting in the Chilili Land Grant and thanked the land grant for its hospitality. Members of the committee and staff were asked to introduce themselves.

### **Welcoming Remarks and History: Chilili Land Grant**

Juan Sanchez, president of the Merced del Pueblo de Chilili and chair of the Land Grant Council, presented to the committee the history of the Chilili Land Grant and provided an update of recent projects. The Chilili Land Grant was granted by the Mexican government in 1841, with the original land grant patent map showing 410,481 acres. In 1876, Chilili became the first land grant to gain status, and in 2007, it became recognized as a unit of government. Mr. Sanchez informed the committee that Chilili has a rich history of heirs and currently maintains a population of about 250 people living on the grant. Throughout the years, members of the community have found pieces of pottery and arrowheads dating back to the early 1600s. According to legend, the main Spanish mission was located in Chilili, and there is evidence of a convent that was close to the arroyo. Mr. Sanchez explained the process of archaeological excavation to the committee. Chilili is currently conducting several projects on the land grant, including:

- forest thinning and restoration. The community of Chilili has been conducting a deforestation project in its forests. The project consists of cutting trees and lopping off branches to a specified height. The goal is to prevent forest fires and to promote healthy habitats for wildlife and vegetation. The U.S. Forest Service will be conducting controlled burns along the west boundary of the land grant.
- water level monitoring. Chilili is in the Estancia water basin and has been monitoring the water levels in the basin. It has been able to conserve more water. Mr. Sanchez noted that irrigated water rights are being turned over for domestic use.
- housing project. Chilili has received funding from a community development block grant (CDBG) and has applied for infrastructure improvements. The goal is to provide housing and to clear leases through the Mortgage Finance Authority. Construction on 12 approved lots is to begin in mid-October. The housing project is not a subdivision, and the people living in the new houses will not own the land, only the house. The Chilili Land Grant board would assist in the event of a default on a home. Low- to moderate-income heirs are eligible for the housing project. A non-profit housing assistant program is helping the land grant with this process.
- Hollywood movies. The Chilili Land Grant has been the site for several movies, such as *The Avengers*. Most recently, the construction of an Afghan village in the land grant is underway for the upcoming movie, *Lone Survivor*.

### **Questions from Committee Members**

A member of the committee requested a concise summary of the history of what Chilili has experienced to get to where it is today as a recognized land grant. Mr. Sanchez proceeded to provide a history of the land grant for the committee, explaining issues of delinquent property taxes and conflicts with Torrance and Bernalillo counties. Mr. Sanchez also discussed some of the public road

disputes that resulted in the involvement of the Bernalillo SWAT team in 1998. According to Mr. Sanchez, the land grant has always had issues with the federal government and with the legal advice that it was given in the 1940s.

In reference to election process concerns in Anton Chico, a member of the committee asked Mr. Sanchez to explain Chilili's election process and organization. The Chilili Land Grant board is composed of five elected members. Election information is announced in the newspaper so people from the land grant can file their candidacy. The names of all of the candidates are then published in the newspaper, and the election is held on the last Sunday in June every year.

Another member asked about water rights issues and if the land grant is directly in charge of water rights. According to Mr. Sanchez, Chilili was one of the land grants that did not get acequias, but it had two recorded acequias. Chilili does not have an acequia association, issues relating to water are handled by the board of trustees. The land grant has declared its water rights with the Office of the State Engineer based on the original map of the land grant. The committee member noted that this may be something that needs to be addressed in statute.

A member of the committee asked about the forest clearing, specifically who is getting the wood that is being harvested. Mr. Sanchez responded that the land grant board of trustees issues permits to heirs for \$10.00 and allows permit-holders to harvest on weekends from the thinning project area. The land grant has hired some members of the grant to do the clearing. Some of the wood is donated to seniors and St. Vincent de Paul. There was some discussion about potential alternative disposal of forest waste, such as chipping and Incitor.

Several members of the committee stressed the importance of recording the oral history of the land grant for future generations.

Questions were raised by members of the committee about job opportunities, the film industry and movie projects. Mr. Sanchez explained that the main interest in the movies and the wood-clearing project is economic development for the land grant. The board currently employs seven individuals for the thinning project. For the movies being filmed on the land grant, the board negotiated a contract to provide jobs on the sets, including construction workers and security personnel. Mr. Sanchez expressed the difficulty of being understaffed. With an all-volunteer staff, the Land Grant Council, frequently is hampered by not having more available manpower. The Land Grant Consejo and the Land Grant Council met with the film association. As a result, Mr. Sanchez believes that in addition to critical contacts, they now have a better idea of what needs to be done to work with the film companies.

A member of the committee asked about boundary issues. Mr. Sanchez replied that most of the time, boundaries are not a problem. The majority of the land surrounding the land grant is private, with the exception of some U.S. Forest Service land along the northwest corner of the land grant.

Responding to questions about the housing project, Mr. Sanchez explained that either built or modular homes will be allowed because they are more energy-efficient. Each parcel of land will

have its own septic and water system. The land will be leased, generating revenue for the land grant and creating a fund. Housing assistance will help with the mortgaging of the homes.

A member of the committee asked about the current relationship between Bernalillo County and Chilili. Mr. Sanchez replied that it is not as bad as before and that relations got better once Chilili was established as a unit of government. Mr. Sanchez said that the Land Grant Council tries to explain to other land grants the responsibilities of becoming a unit of government, stressing the ability to maintain roads. Taxes are still a big issue, with the county not administering the tax properly. For example, some land is doubly assessed, while other portions of land are within county jurisdiction and are not assessed. Chilili pays taxes for the cemetery, the church and the highway. There is an easement that belongs to the Department of Transportation, but the land belongs to the land grant. The land grant continues to pay taxes on this land to maintain clarity of ownership. The Chilili Land Grant is part of the Mid-Region Council of Governments but has always had a contentious relationship with the organization.

One member of the committee asked what the biggest advantage of becoming a political subdivision has been for Chilili. Mr. Sanchez stated that for Chilili it has been the jurisdiction issue and being recognized as a unit of government. Mr. Sanchez also acknowledged a downside — that of being a government, itself. Chilili is still learning how other villages operate, and the learning process takes time.

### **Update on Litigation Involving Traditional Cultural Properties (TCP) Designation on Mount Taylor**

Sarah Maestas Barnes, heir and representative of the Cebolleta Land Grant, provided an update to the committee on the ongoing litigation involving Mount Taylor and the TCP designation. Ms. Barnes informed the committee that the New Mexico Supreme Court heard oral arguments on the issue the previous week. At the time of Ms. Barnes' testimony, no opinion had been reached by the court, but she expressed confidence in Cebolleta's briefing and the court's ability to uphold the law and support the land grants.

### **Questions from Committee Members**

Members of the committee asked Ms. Barnes about the court proceedings and the dispute. Ms. Barnes explained that all private property owners were to be excluded from the TCP. Some private landowners were present at the court hearings. Ms. Barnes was unsure about the acreage of the private land included in the TCP, but she informed the committee that 19,000 acres — more than half of the land grant — is claimed by the TCP. It was noted that the Cubero Land Grant was excluded from the boundaries of the TCP, but the Marquez Wildlife Area was not.

Conroy Chino, a registered lobbyist for the Pueblo of Acoma and the Jicarilla Apache Nation, was asked by a member of the committee to address the LGC on this issue. Mr. Chino explained that the TCP was sought by five different tribes because of its sacred and historic significance. The issue has become the land grants versus the tribes of New Mexico, despite the commonalities shared by both groups. Mr. Chino believes that the primary issue is uranium, which is the biggest issue for the tribes. He would like to see the groups sit down to discuss Mount Taylor and the TCP.

Ann Rogers, who represents the Pueblo of Acoma, echoed the sentiments of Mr. Chino, stressing the need for these communities to work together. Ms. Rogers explained that the pueblos believe that all private properties are excluded and that the Cubero Land Grant was excluded because the Pueblo of Acoma, which is responsible for determining what land would be contributed to the TCP, decided that Cubero was not that valuable for purposes of the TCP.

A member of the committee asked about the role of uranium mining in this conflict, as opposed to historic value. Mr. Chino responded that 19,000 acres of the Cebolleta Land Grant were taken for the TCP, and there are plans to develop areas within the land grant for uranium mining. There is a real concern for the degradation of land and water that occurs with mining. That is the biggest concern of the pueblos.

Ms. Barnes reasserted that there are no plans to develop uranium mining within the 19,000 acres of the land grant. The land grant has indicated where there is a potential for future mining, but not on the same land. The Cebolleta Land Grant only has 34,000 acres. The goal of the land grant is not to protect uranium mining. Ms. Barnes, speaking on behalf of the Cebolleta Land Grant, told the committee that the land is sacred to the land grant, which wants to maintain control of the land. Ms. Barnes said that Cebolleta should have been initially invited to the table about the TCP and that it will continue to fight because the land is important to the heirs. It is their goal to preserve the land for the future generations.

A member of the committee stressed that the issue is about preserving history and not about uranium. The LGC has never been about uranium or mining.

#### **Update on Transfer of the Marquez Wildlife Area to the Cebolleta Land Grant**

Ms. Barnes addressed the committee about the transfer of the Marquez Wildlife Area. According to her testimony, Cebolleta made a presentation to the State Game Commission in August. The commission took a public vote, which determined a lack of interest in the transfer at the time. Cebolleta made it clear to the commission that it continues to have an interest in the transfer if the commission changes its mind.

Daniel Brooks, deputy director, Department of Game and Fish, informed the committee that the State Game Commission met to discuss the issue in November 2011 and decided not to make the transfer at that time. The commission heard input from a lot of sportsmen and sportswomen that use the land and recognized their opposition to the transfer. The Marquez Wildlife Area was purchased in the 1950s using hunting and fishing license money.

#### **Questions from Committee Members**

Members of the committee asked Mr. Brooks about use of the land and its limited access. One member stressed that the gates to access roads need to remain unlocked. Mr. Brooks was unsure of the number of hunters that use the Marquez Wildlife area, prompting Representative Rodella to request harvest reports for the last four years, along with numbers for the last five years of hunters using the land and for what species. It was suggested to include a map of how hunters can access the Marquez Wildlife Area.

Mr. Brooks added that the Department of Game and Fish grants access to hunters through a specified area. Access is tough and not accessible 365 days a year. Hunters are given the combination to the locked gate. State Game Commission land is not open for activities other than hunting and fishing with licenses. A member of the committee noted that if it is not accessible to the general public, then something needs to be done to dispose of the land.

A member of the committee expressed disappointment in what he considered a step backward in the relationship between the land grants and the Department of Game and Fish. All land owned by a state entity that was once part of a traditional land grant should be returned to that land grant. Land needs to end up in its rightful hands. The member asked Ms. Barnes to provide her interpretation of the chain of events leading up to the commission's decision to not transfer the Marquez land. Ms. Barnes recounted the last few years, highlighting miscommunication as a contributing factor to the transfer being denied. Mr. Brooks acknowledged Ms. Barnes' recollections as correct.

Representative Rodella requested a breakdown on the cost to maintain the land in question, referring to the original reasons for the transfer.

Discussion occurred regarding the joint resolution from the previous legislative session that included access for sportsmen and women in the event of the transfer of the land. Ms. Barnes stated that the joint resolution was a formality intended to expedite the process. Members of the committee discussed the process of returning lands to land grant heirs and several scenarios of land transfer.

### **Approval of Minutes**

#### *Motion 1*

Upon a motion by Representative Garcia, seconded by Senator Sanchez, the committee voted unanimously to approve the minutes of the second and third meetings of the LGC.

### **Report from the Land Grant Council**

Mr. Sanchez informed the committee that the Land Grant Council does not have a written report this year due to a lack of staff and funding. Mr. Sanchez updated the LGC about gains the council has made working with the U.S. Forest Service and establishing memoranda of understanding with the Carson, Cibola and Santa Fe national forests. The council has achieved National Environmental Policy Act clearance on acres of land grant areas for firewood and other traditional-use rights through U.S. Representative Ben R. Lujan's office. The Land Grant Council is working with other land grants, such as Anton Chico and San Miguel del Vado, regarding elections and helping them refine their bylaws.

The biggest challenge facing the Land Grant Council is funding and a lack of hired staff. Mr. Sanchez noted that the council had \$150,000 when it was first established. In fiscal year 2011, the council received no funding and in fiscal year 2012, it was allotted \$11,000. In July 2012, the Department of Finance and Administration (DFA) requested money from the Legislative Finance Committee in the amount of \$50,000. The Land Grant Council is seeking money from the LGC to fund some staff. The council has submitted a budget for \$30,000 and is requesting a nonrecurring amount of \$50,000 based on the suggestion of the DFA.



## **Questions from Committee Members**

### *Motion 2*

Senator Cisneros requested that a letter be sent to the DFA regarding the importance of having funds reflect the current levels. A motion was made by Senator Sanchez, seconded by Representative Garcia, to have staff prepare a letter requesting the \$300,000.

There was discussion by the committee about the Land Grant Studies Program at the University of New Mexico (UNM) and efforts to reach out to the next generation of land grant heirs and leaders by educating them on land grant issues and history.

## **Report from the Land Grant Consejo**

Gilbert Ferran, chair, Land Grant Consejo, provided a history of how the consejo was established. The consejo was formally established in December 2006 with the adoption of a set of bylaws and with the eventual participation of 28 community land grants in New Mexico and one in Colorado. The consejo is an organization of land grants composed of representatives appointed from each of the member land grants. The consejo is an advocacy organization, established for the purpose of advancing the collective interests of community land grants by working with the New Mexico Legislature, New Mexico executive agencies and U.S. executive agencies, especially the U.S. Forest Service, the Bureau of Land Management (BLM) and Congress.

By 2009, the consejo adopted a new strategy that included working with the newly established Land Grant Council. The strategy included advocating for traditional-use rights for land grant heirs within the historic common lands or traditional-use lands of the land grants. The consejo has achieved some victories for the land grants and continues to work toward several long-term priorities, including:

- the recovery of former common lands;
- the legislative repeal of *United States v. Sandoval* (1897);
- payment in lieu of taxes for common lands now managed by the federal government;
- taking action on unadjudicated or unjustly adjudicated land grants;
- federal recognition of priority and pre-existing rights to water, minerals and other natural resources on existing and former common lands; and
- establishing a funded endowment for land grants to support land recovery, economic development, education and cultural preservation.

## **Questions from Committee Members**

A member of the committee requested Dr. Manuel Garcia y Griego from the Land Grant Studies Program to address the committee regarding *U.S. v. Sandoval*. Dr. Garcia y Griego explained that the case's importance was the decision by the U.S. Supreme Court that the lands belong to the Mexican government, and as a result of the Treaty of Guadalupe Hidalgo, the land now belongs to the U.S. government. As a result, seven land grants in New Mexico were stripped of all their common lands, which totaled over three million acres. Land grants that were adjudicated early got most or all of their lands. Those lands adjudicated later in the process were lost. A Government Accountability Office report mentioned the repeal of *U.S. v. Sandoval*.

A member of the committee asked Mr. Ferran if the consejo has any pending or proposed legislation and if it is contemplating the repeal of *U.S. v. Sandoval*. Mr. Ferran stated that the consejo is currently proposing the return of a cemetery and traditional-use rights. In regard to *U.S. v. Sandoval*, its repeal is a goal of the consejo, but the process is long and slow.

In reference to the Chilili Land Grant's private housing project, a member of the committee asked if the consejo has considered working on similar legislation to create a fund for infrastructure. Mr. Ferran acknowledged some talk about the project, but he said that there has not been any official legislation in the works. Chilili, he noted, is going to set a precedent with its housing project.

Members of the committee discussed several suggestions for the consejo, such as working with UNM's film program to produce documentaries for the land grants and looking into money allocated for the Water Trust Board to help with land grant infrastructure and water projects.

### **Land Grant Studies Program**

Dr. Garcia y Griego provided some background on what the Land Grant Studies Program has done and its vision. The program was established as a result of legislative funding, and with the help of a current \$29,900 budget, it is able to hire student interns to examine land grant issues. Students work on presentations about land grants for external consumption and conduct historical and archival research in Santa Fe. In addition, the program also provides office support for land grants in the form of digitizing records, researching genealogies and taking minutes. The program hopes to fund a few graduate students to conduct research and write their master's theses on land grant issues.

Outreach is a major goal of the Land Grant Studies Program. However, it is becoming increasingly difficult with the reductions in funding since 2009. The program was originally supposed to receive funding of \$117,500 on a recurring basis. Dr. Garcia y Griego highlighted the mapping project as a major undertaking focused on developing the historical boundaries of land grants by researching in Santa Fe and Washington, D.C. Land grants have a fairly complex history, and the next step includes incorporating research with GPS work to identify the historical boundaries.

The Land Grant Studies Program had plans to meet with the BLM in early November to review 12 land grant maps. The meeting was to be a workshop, with two goals: 1) to describe the methodology, intentions and possibilities of traditional-use agreements; and 2) to gain an understanding of how the U.S. Forest Service works with land grants and the best way to deal with them.

Dr. Garcia y Griego noted a lack of knowledge surrounding land grants outside of New Mexico. He stressed the need for oral histories and public outreach to preserve the wealth of knowledge for the next generation. Dr. Garcia y Griego also suggested cooperation with the UNM School of Law on land grant issues.

### **Questions from Committee Members**

A member of the committee suggested an interface between the Land Grant Council and the Land Grant Studies Program. Dr. Garcia y Griego affirmed that while the council has the expertise, it lacks the resources it needs. The program can provide student support for projects but cannot provide funding. In the past, the program has helped land grants with the election code.

Representative Garcia requested staff to draft legislation for discussion at the final LGC meeting of the interim for an appropriation of \$117,500 for the Land Grant Studies Program.

A member of the committee suggested cooperation with the state historian in order to minimize a duplication of efforts. Dr. Garcia y Griego informed the committee that he has looked at what the state historian has done and that the Land Grant Studies Program's work has complemented it. There is an academic interest in this topic as well as a public policy interest in those land grants that have boards of trustees.

A member of the committee inquired about the contract between the Land Grant Council and the DFA. Dr. Garcia y Griego clarified that it is not a contract between the DFA and the Land Grant Council, but that it was approved by the DFA. Dr. Garcia y Griego believes it would not have been simpler to contract directly with the program because the program is already doing too much. The program is best organized for archiving and research. The council needs legislative support and funding.

### **U.S. Forest Service and the New Mexico Land Grants**

James Melonas, New Mexico state liaison, U.S. Forest Service, Southwestern Region, provided an update on U.S. Forest Service work with land grant communities. During his presentation, Mr. Melonas highlighted the following:

- The Land Grant Council Memorandum of Understanding (MOU). This MOU, signed in 2011, serves as a framework for expanding partnerships and relationships between the two parties. As part of the MOU, the two parties meet regularly to work together to resolve local issues.
- The Master Stewardship Agreement. This agreement will tie to the MOU and foster on-the-ground stewardship agreements between national forests or local ranger districts and individual land grant communities for the use of forest products.
- The Truchas Land Grant Boundary. Representatives from the Truchas Land Grant, the U.S. Forest Service, the Land Grant Council, the Land Grant Consejo, the Land Grant Studies Program and Senator Tom Udall's office visited the southern boundary of the land grant. A follow-up meeting was scheduled in October to discuss the results of the findings.
- The Mapping Project. The U.S. Forest Service is working with the Land Grant Council and the Land Grant Studies Program on the mapping project.
- The Collaborative Forest Restoration Program. This program is designed to encourage collaborative partnerships to build sustainable communities and forests. To date, there

- are 12 projects that involve land grant partners, including the Merced del Pueblo de Chilili and the San Antonio de las Huertas land grants.
- The United States Department of Agriculture (USDA) StrikeForce. This program is an effort to increase outreach to rural communities to take advantage of available USDA programs and to provide funding and low-interest loans.

### **Questions from Committee Members**

A member of the committee asked about the U.S. Forest Service's capacity to return land grant land if boundaries are incorrect as well as who would pay for the survey and any moving of the fences, if necessary. Mr. Melonas answered that the U.S. Forest Service would need to do a formal survey. There would not need to be congressional action. The regional forester overseeing the Southwest would be involved in that decision.

A member of the committee asked about the U.S. Forest Service's position on traditional- use rights. Mr. Melonas explained that if legislation were to be introduced and a hearing was held, the agency would take a position on the bills. The U.S. Forest Service has the authority to work with local communities through stewardship agreements giving rangers tools to work with the land grants.

A member of the committee requested that Mr. Melonas present some of the U.S. Forest Service's findings at the final LGC meeting. The member also asked for clarification on the USDA StrikeForce program's loans. Mr. Melonas explained that the loans are intended for economic and community development for historically underserved communities. There are a lot of programs available that are not used to their full potential. The purpose of the program is to help communities navigate the USDA bureaucracy and inform them about available programs.

### **Recognition of the Chihene Nde Nation**

Manny Sanchez, chair, Chihene Nde Nation of New Mexico, provided an in-depth historical account of the of the Chihene Nde people. Mr. Sanchez requested a memorial acknowledging the existence of his people and asking the New Mexico congressional delegation to assist in the nation's federal re-recognition effort. The Chihene Nde Nation is not recognized today because of the federal Indian Reorganization Act. Mr. Sanchez talked about current efforts and projects, including a posttraumatic stress disorder treatment program and protection of sacred sites.

Lorraine Garcia, member at large, tribal council/historic recordkeeper, Chihene Nde Nation, continued the presentation by reading aloud the essay "From the Mogollon to Chi'hene".

### **Questions from Committee Members**

Members of the committee asked various questions about what is being asked by the representatives of the Chihene and efforts to work with universities on research and archaeological excavations. Mr. Sanchez noted the help of Western New Mexico University, New Mexico State University and the UNM School of Law.

Representative Garcia requested staff to draft a memorial and collaborate with presenters on the language of the memorial.

**Public Comment**

Lou Sena, heir of the San Miguel del Vado Land Grant, provided an update of the 2012 board election. The election issues remain unresolved, and Mr. Sena asked the LGC to speak to the courts on behalf of the land grant, requesting that the community be allowed to resolve its own issues.

A member of the committee suggested that the San Miguel del Vado Land Grant issue be added to the agenda of the final meeting.

**Recess**

The committee recessed for the day at 5:00 p.m.

**Friday, October 5****Tour of the Chilili Land Grant**

The committee toured the Chilili Land Grant, including a visit to the church and the Afghan village set for *Lone Survivor*.

**Adjournment**

There being no further business before the committee, the fourth meeting of the LGC was adjourned at 1:30 p.m.

**MINUTES  
of the  
FIFTH MEETING  
of the  
LAND GRANT COMMITTEE**

**November 13, 2012  
Room 317, State Capitol  
Santa Fe**

The fifth meeting of the Land Grant Committee was called to order by Senator Richard C. Martinez, chair, on November 13, 2012 at 10:22 a.m. in Room 317 of the State Capitol in Santa Fe.

**Present**

Sen. Richard C. Martinez, Chair  
Rep. Miguel P. Garcia, Vice Chair  
Rep. Eliseo Lee Alcon  
Rep. Alonzo Baldonado  
Rep. Paul C. Bandy  
Rep. Eleanor Chavez  
Rep. Jimmie C. Hall  
Sen. Gerald Ortiz y Pino  
Rep. Debbie A. Rodella  
Sen. Sander Rue  
Sen. Bernadette M. Sanchez

**Absent**

Sen. Rod Adair

**Advisory Members**

Sen. Carlos R. Cisneros  
Rep. Joni Marie Gutierrez  
Rep. Jim W. Hall  
Speaker Ben Lujan  
Rep. Patricia A. Lundstrom  
Sen. David Ulibarri  
Rep. Richard D. Vigil

**Guest Legislators**

Rep. Yvette Herrell  
Sen. Nancy Rodriguez

**Staff**

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)  
Peter Kovnat, Staff Attorney, LCS  
Alex Tapia, Legislative Intern, LCS

**Guests**

The guest list is the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file.

## **Tuesday, November 13**

### **Call to Order**

Senator Martinez welcomed everybody to the final meeting of the Land Grant Committee. Members of the committee, staff and individuals in the audience were asked to introduce themselves.

### **Transfer of Federal Lands to New Mexico**

Representative Herrell gave a PowerPoint presentation to the committee on a bill that would return federal lands in New Mexico back to the control of the state. (She had given a similar presentation to the Economic and Rural Development Committee on July 13, 2012.) Representative Herrell's bill mirrors one passed in Utah, the Transfer of Public Lands Act. Representative Herrell noted that less than 50% of all the land in the western United States is managed by the states themselves and that these states could utilize the land to produce a profit, especially by exploiting natural resources. She stated that under her version of the bill, Native American lands, military bases and national monuments would be ineligible for transfer. She added that similar movements have been started in many mountain west states.

### **Questions from Committee Members**

Committee members discussed constitutional challenges to the bill and questioned Representative Herrell regarding how the federal lands would be managed by the state. While there was general support for the overall concept, some members of the committee expressed concern about how the state's land grants would be affected and how counties that rely on federal payments in lieu of taxes would be compensated for the loss of income that would come about were these federal lands to be transferred to the state. Mr. Carver noted that Utah passed a bill, a constitutional amendment and a memorial in support of the transfer bill, although Utah's governor recognized that the bill is subject to constitutional challenge.

A member of the committee stated that Arizona manages its federal lands on behalf of the federal government. As a result, Arizona's knowledge of its land use is impressive. Representative Hall also stated that considerable special attention would have to be paid to the land grants and the Native American reservations because of their immense history.

### **Taxation and the Land Grants**

Cesario Quintana, director, Property Tax Division of the Taxation and Revenue Department, opened the presentation on taxes and the land grants by discussing a handout from the Department of Finance and Administration (DFA). Mr. Quintana provided a brief overview of the net taxable value for property tax purposes broken down by county for the 2012 tax year. The total New Mexico property tax obligations for 2012 was \$1.54 billion, with the statewide net taxable value tallying \$54.1 billion. Mr. Quintana pointed out that Bernalillo County has the highest weighted average property tax rates at \$39,057 for residential property and \$43,991 for nonresidential property. The average property tax collection rate for the 2012 tax year was 95.85%. Michael O'Melia, deputy director, Property Tax Division, addressed the various tax statutes connected to land grant issues, referring members of the committee to the highlighted sections in the DFA handout. Richard

Anklam, president and executive director of the New Mexico Tax Research Institute, noted that there is nothing specifically addressing land grants in statute.

### **Questions from Committee Members**

Members of the committee asked the presenters various questions regarding school districts, hospital districts and property taxes. Committee members were most concerned about the issues of land grants and the loss of land due to unpaid taxes. One member, pointing out that the committee views land grants as entities of local government, asked the presenters what would need to be done to stop land from having to be sold at auction to pay for delinquent taxes. Mr. O'Melia mentioned that some properties are exempt and referred the committee to Section 7-38-67 NMSA 1978 for some answers to this issue. He noted that land grant trustees are allowed to match the highest bid if a property goes up for sale and that there has been some movement toward helping the land grants retain their lands. A member of the committee added that allowing trustees to match the highest bidder was a compromise and not yet a solution, suggesting the need for a constitutional amendment regarding the right of first refusal. The member requested that the presenters look into the fiscal impact of full exemption for land grants for the next interim.

Members of the committee asked about specific plots of land, such as the Marty Sanchez Golf Course and Christus St. Vincent Hospital, inquiring as to how they are taxed and how that tax is assessed.

A member of the committee asked about paying "double taxes", an issue that is prevalent in land grant communities. The member explained that if there is a land dispute, the land grant pays and owners pay on the same land, an issue that the committee wants to see addressed. Mr. Quintana responded that residents can protest their taxes at the local level and point out double taxes to the county assessor. Assessors have tried to assist with these issues, but the occurrence of unclear deeds complicates the matter.

The issues of different tax rates for grazing were mentioned to the presenters. Mr. Quintana referred the committee to the handout that contained Section 7-36-20 NMSA 1978 and added that counties tax at different rates due to area conditions and weather. Mr. O'Melia noted that there is a taxable value as opposed to a taxable rate. The actual value is formulaic, and a uniform value would not be optimal.

### **Approval of Minutes**

Upon a motion by Representative Garcia, seconded by Representative Rodella, the committee voted unanimously to approve the minutes of the fourth meeting of the committee.

### **Update on Truchas Land Grant Boundary Resolution**

James Melonas, New Mexico state liaison, United States Forest Service (USFS), Southwestern Region, provided an update to the committee on the Truchas Land Grant boundary dispute. Mr. Melonas took a field trip in September, along with members of the Truchas Land Grant, the Land Grant Council, the Land Grant Consejo, the University of New Mexico land grant studies program and United States Senator Tom Udall's office staff to examine survey monuments along the southern boundary of the land grant. During the trip, the group was shown several survey monuments that are a mile or more south of the existing land grant boundary within the Santa Fe National Forest. The original survey of the Truchas Land Grant was conducted in 1895 by Albert Easley, U.S. General



Land Office deputy surveyor, based on the description from the Court of Private Land Claims; it is agreed by all parties that the Easley survey represents the legal boundaries of the grant. Mr. Melonas noted that parts of the fences have been damaged by recent fire and that there are some boundary discrepancies, including that the fence is 10 to 15 feet off. Other parts of the boundary will be examined next year during another visit to the land grant. Mr. Melonas also provided to the committee a copy of the memorandum of understanding between the land grants and the USFS.

John Chavez, Truchas Land Grant, informed the committee that, during the field trip, only one mile of the 15-mile boundary was examined. Mr. Chavez stressed that there has not been a resolution, but that the issue is a work in progress. The land grant views this as the beginning of the process in an issue that goes back to 1946. Mr. Chavez acknowledged that through the work of the committee, the USFS has been working with the land grant.

### **Questions from Committee Members**

Members of the committee praised the representatives from both groups for their cooperation with one another and the ongoing progress on land grant issues. A member of the committee asked Mr. Melonas whether he agreed with the statements made by Mr. Chavez. Mr. Melonas responded that the USFS does want to go back out to the land grant and examine the entire boundary. The land grant had brought that portion of the boundary forward for the September meeting, and the USFS looks forward to seeing some of the other areas. Mr. Melonas added that his job is to help facilitate getting the right people to the table on these issues.

A member of the committee asked if the USFS is still compiling information as mentioned in the letter supplied by Mr. Melonas. Mr. Melonas replied that the information has yet to be written up in a formal format. A report will be compiled and provided to the committee and the Land Grant Council. The USFS also has survey notes about the monuments that can be included in that report. Mr. Melonas added that those notes can be helpful in understanding what the surveyors were examining.

### **Proposed Legislation**

The following legislation was presented to the committee for endorsement in the 2013 legislative session.

#### **Chihene Nde Nation Memorial: 202.190624.1**

This is a joint memorial requesting that the United States Congress support the establishment of the Chihene Nde Nation of New Mexico people as a recognized Native American tribe. Manuel Sanchez, chair, Chihene Nde Nation, provided the committee with a brief history, including information about past treaties and treatment by other groups. Paul A. Martinez, New Mexico League of United Latin American Citizens, mentioned that once the New Mexico Legislature passes this memorial, Senator Udall and United States Representative Steve Pearce have agreed to carry the issue forward in Congress. There was discussion between the members of the committee and the Chihene Nde representatives about the impact that recognition would have on the other land grants and future land grant claims in the area. Representative Garcia moved for committee endorsement of the memorial. The motion was seconded by Representative Alcon, and it was agreed that Senator Ortiz y Pino and Representative Garcia would carry the memorial in their respective chambers.

**Repealing Section 61-23-34 NMSA 1978: 202.190561.1**

This proposed bill would repeal a duplicative section of the Engineering and Surveying Practice Act that provides for a notice requirement for surveys conducted on certain land grants. Senator Rue informed the committee of the purpose of the original bill. Mr. Carver explained that a bill had passed in the 2012 session with roughly 80% of the same language, thus creating conflicting sections of law. After reviewing both bills, it was determined that the language of the original 2011 bill was more precise. Representative Garcia moved for committee endorsement. Senator Rue seconded the motion and requested to carry the bill.

**Water Project Financing Bill: 202.190599.1**

This bill would expand the eligibility for grants and loans under the Water Project Finance Act. Mr. Carver clarified that land grants are already included and this change would add dams and acequias. After discussion, Representative Rodella moved for committee endorsement of this bill; the motion was seconded by Representative Garcia. Representative Hall agreed to carry the bill in the house, and Senator Cisneros said he would carry it in the senate.

**Use of Private and Federal Funds to Assist Community Land Grants: 202.190610.1**

This bill would allow the Land Grant Council to use private and federal funds to assist community land grants that are not political subdivisions of the state and would clarify the council's authority to determine the status of a community land grant. This bill is a reintroduction of legislation introduced by Senator Sanchez in 2012. Representative Garcia moved for committee endorsement, seconded by Representative Chavez, with the bill to be carried by Representative Garcia.

**Transfer of the New Mexico Community Land Grant Registry: 202.190611.1**

This bill would transfer the New Mexico Community Land Grant Registry to the Land Grant Council, providing for the storage of historical documents. Mr. Carver noted that the Secretary of State's Office endorses the concept behind this bill, although it was not available to appear to discuss it. Representative Garcia moved for committee endorsement of the bill, seconded by Senator Rue. Senator Martinez will carry the bill.

**Appropriation of \$117,500 for the Land Grant Studies Program: 202.190609.1**

This bill is for an appropriation of \$117,500 for the UNM land grant studies program to provide research and public service for land grant communities. A motion for committee endorsement was made by Representative Garcia and seconded by Representative Rodella. The committee agreed to have Representative Hall and Representative Garcia carry the bill.

**Amending Chapter 49, Article 1 NMSA 1978: 202.190612.1**

This bill would amend Chapter 49, Article 1 NMSA 1978 to include the Tecolote Land Grant-Merced. This bill is a reintroduction of legislation from 2011 and 2012. Representative Garcia and Representative Hall explained to the committee the history of the bills and why they did not pass in prior sessions. After discussion, Representative Garcia moved for committee endorsement; Representative Rodella seconded the motion. Representative Garcia and Senator Rue will carry the bill for the 2013 session.

## **Political Subdivision Status for the San Antonio del Rio Colorado Land Grant-Merced: 202.190613.1**

This bill would grant political subdivision status to the San Antonio del Rio Colorado Land Grant-Merced. This is a reintroduction of legislation from 2012 carried by Senator Cisneros. Representative Garcia moved for the committee to endorse the bill, seconded by Representative Baldonado. As he requested prior to the meeting, Senator Cisneros will carry the bill again.

### **Public Comment**

#### *Speaker 1*

Juan Sanchez, chair, Land Grant Council, addressed the committee about the following topics.

1. The council would like a memorial endorsing the proposition that building permits for land grants in Bernalillo County be issued directly from the Construction Industries Division (CID) of the Regulation and Licensing Department instead of through Bernalillo County. Mr. Sanchez noted that all other land grants go through the CID for permits. After discussion by the committee, and the mention of the ongoing issues with the CID discussed in the Economic and Rural Development Committee, it was recommended that the land grants attempt to work with the county more. The committee reached a consensus to wait to address this issue.

2. Mr. Sanchez presented the ongoing issue with surveyors and land grant properties in regard to encroachments and new deeds being created. The council would like to amend Chapter 49 NMSA 1978 to include all community land grants. It was noted that some surveyors are starting to notify the land grants. Santa Cruz is having issues with surveyors following color of title, resulting in heirs having to defend landholdings in court. Senator Rue mentioned that he would prefer to deal with the issues separately and would be willing to carry a bill. Another member requested that Senator Rue prefile the bill so members of the committee could sign on to it.

3. Mr. Sanchez informed the committee that he would be presenting before the DFA the following day and provided the draft of a letter for the DFA to the committee.

4. Mr. Sanchez provided a letter to the committee from the director of the UNM land grant studies program, Dr. Manuel Garcia y Griego, as well as a list of names of workshop attendees.

5. Mr. Sanchez discussed some issues regarding the USFS and land grants. Dr. Garcia y Griego is helping all of the land grants with global positioning service mapping. The USFS is going to start amending and working on the forest use agreements, an important step for land grants and traditional use rights. A member of the committee expressed interest in being included in these discussions, suggesting that the committee chair or staff notify committee members of meetings.

#### *Speaker 2*

Carmen Quintana, a Santa Fe resident and land grant heir, brought up the issue of permitting in Santa Fe County. Ms. Quintana mentioned that private land grants do not receive any preference in El Consejo and that the federal government is wanting to expand the national cemetery. Ms. Quintana told the committee that she was present at the meeting to bring up the issue of a bill introduced in a past session by Speaker Lujan.

**Adjournment**

There being no further business before the committee, the fifth and final meeting of the Land Grant Committee for the 2012 interim adjourned at 3:20 p.m.

## **ENDORSED BILLS**



## SENATE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO WATER PROJECT FINANCING; EXPANDING THE ELIGIBILITY  
FOR GRANTS AND LOANS UNDER THE WATER PROJECT FINANCE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 72-4A-7 NMSA 1978 (being Laws 2001,  
Chapter 164, Section 7, as amended) is amended to read:

"72-4A-7. CONDITIONS FOR GRANTS AND LOANS.--

A. Grants and loans shall be made only to  
qualifying entities that:

(1) agree to operate and maintain a water  
project so that it will function properly over the structural  
and material design life, which shall not be less than twenty  
years;

(2) require the contractor of a construction  
project to post a performance and payment bond in accordance

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underscored material = new  
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with the requirements of Section 13-4-18 NMSA 1978;

2                   (3) provide written assurance signed by an  
3 attorney or provide a title insurance policy that the  
4 qualifying entity has proper title, easements and rights of way  
5 to the property upon or through which a water project proposed  
6 for funding is to be constructed or extended;

7                   (4) meet the requirements of the financial  
8 capability set by the board to ensure sufficient revenues to  
9 operate and maintain a water project for its useful life and to  
10 repay the loan;

11                   (5) agree to properly maintain financial  
12 records and to conduct an audit of a project's financial  
13 records;

14                   (6) agree to pay costs of originating grants  
15 and loans as determined by rules adopted by the board; and

16                   (7) except in the case of an emergency,  
17 submit a water conservation plan with its application if  
18 required to do so and one is not on file with the state  
19 engineer, pursuant to Section 72-14-3.2 NMSA 1978.

20                   B. Plans and specifications for a water project  
21 shall be approved by the authority, after review and upon the  
22 recommendation of the state engineer and the department of  
23 environment, before grant or loan disbursements to pay for  
24 construction costs are made to a qualifying entity. Plans and  
25 specifications for a water project shall incorporate available

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technologies and operational design for water use efficiency.

C. Grants and loans shall be made only for eligible items, which include:

- (1) to match federal and local cost shares;
- (2) engineering feasibility reports;
- (3) contracted engineering design;
- (4) inspection of construction;
- (5) special engineering services;
- (6) environmental or archaeological surveys;
- (7) construction;
- (8) land acquisition;
- (9) easements and rights of way; ~~[and]~~
- (10) dams and acequias; and
- ~~[(10)]~~ (11) legal costs and fiscal agent

fees."

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HOUSE BILL

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**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

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INTRODUCED BY

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FOR THE LAND GRANT COMMITTEE

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AN ACT

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MAKING AN APPROPRIATION TO THE BOARD OF REGENTS OF THE

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UNIVERSITY OF NEW MEXICO TO FUND A LAND GRANT STUDIES PROGRAM

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AT THE UNIVERSITY OF NEW MEXICO.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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**SECTION 1. APPROPRIATION.**--One hundred seventeen thousand

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five hundred dollars (\$117,500) is appropriated from the

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general fund to the board of regents of the university of New

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Mexico for expenditure in fiscal year 2014 to develop a land

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grant studies program at the university of New Mexico. Any

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unexpended or unencumbered balance remaining at the end of

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fiscal year 2014 shall revert to the general fund.

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underscored material = new  
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HOUSE BILL

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**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

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INTRODUCED BY

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FOR THE LAND GRANT COMMITTEE

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AN ACT

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RELATING TO LAND GRANTS; ALLOWING THE LAND GRANT COUNCIL TO USE  
PRIVATE AND FEDERAL FUNDS TO ASSIST COMMUNITY LAND GRANTS THAT  
ARE NOT POLITICAL SUBDIVISIONS OF THE STATE; CLARIFYING COUNCIL  
AUTHORITY TO DETERMINE THE STATUS OF A COMMUNITY LAND GRANT.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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SECTION 1. Section 49-11-1 NMSA 1978 (being Laws 2009,  
Chapter 94, Section 1) is amended to read:

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"49-11-1. SHORT TITLE.--~~[This act]~~ Chapter 49, Article 11  
NMSA 1978 may be cited as the "Land Grant Support Act".

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SECTION 2. Section 49-11-2 NMSA 1978 (being Laws 2009,  
Chapter 94, Section 2) is amended to read:

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"49-11-2. DEFINITIONS.--As used in the Land Grant Support  
Act:

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A. "council" means the land grant council; and

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B. "land grant" means a patented community land grant-merced ~~[organized and operating as a political subdivision of the state]."~~

SECTION 3. Section 49-11-4 NMSA 1978 (being Laws 2009, Chapter 94, Section 4) is amended to read:

"49-11-4. LAND GRANT SUPPORT PROGRAM--COUNCIL DIRECTOR POWERS AND DUTIES.--

A. The council, through its staff or contract agents, may apply for and accept any public or private grants, gifts or donations for the benefit of the land grant support program, the council or land grants in general or particular.

B. The council, through its staff or contract agents, may:

(1) assist land grants in all areas of land grant fiscal and programmatic management, including planning, economic development and infrastructure development;

(2) establish cooperative purchasing capabilities for land grants;

(3) perform special studies and undertake surveys of interest to land grants and report the findings;

(4) serve as fiscal agent and administrator for federal and state grants-in-aid and other funding for a land grant when necessary;

(5) facilitate or enter into agreements with state and federal agencies on behalf of land grants;

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(6) enter into contracts to carry out the  
purposes of the Land Grant Support Act; and

(7) provide other assistance to land grants.

C. The council, through its staff or contract  
agents, shall:

(1) facilitate the exchange of experience and  
advice among land grants;

(2) serve as a liaison between land grants and  
federal, state and local agencies;

(3) promote cooperation between land grants  
and, by consultation and advice, assist in the coordination of  
land grant programs;

(4) provide board development opportunities  
and technical assistance to the governing boards of land  
grants;

(5) provide short- and long-range planning  
assistance to land grants;

(6) conduct training sessions for land grants  
on topics of interest, such as:

(a) local, state and national zoning  
trends and concerns and other land-use issues;

(b) state requirements for political  
subdivisions on such topics as open meetings, public records,  
procurement, risk management, tort claims and financial  
accountability;

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(c) techniques of historical research;

(d) grant writing;

(e) economic development strategies; and

(f) rangeland management and water

conservation;

(7) disseminate information to relevant federal, state and local agencies on land grant issues and activities and, when requested, on the status of individual land grants;

(8) determine whether a land grant is eligible to be a political subdivision of the state, based on proof that the land grant is in compliance with requisite statutes and rules;

[~~(8)~~] (9) develop and promote federal legislation for an appropriate congressional response to longstanding community land grant claims in New Mexico; and

[~~(9)~~] (10) review state and federal policies, plans and legislation affecting land grants in New Mexico.

D. Federally and privately derived funds may be expended for the general benefit of all land grants or the benefit of specific land grants, which may or may not be political subdivisions of the state."

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SENATE BILL

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**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3

INTRODUCED BY

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FOR THE LAND GRANT COMMITTEE

9

10

AN ACT

11

RELATING TO LAND GRANTS; TRANSFERRING THE NEW MEXICO COMMUNITY

12

LAND GRANT REGISTRY TO THE LAND GRANT COUNCIL; PROVIDING FOR

13

STORAGE OF HISTORICAL DOCUMENTS; DECLARING AN EMERGENCY.

14

15

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16

**SECTION 1.** Section 49-1-23 NMSA 1978 (being Laws 2005,

17

Chapter 205, Section 1) is amended to read:

18

"49-1-23. COMMUNITY LAND GRANT REGISTRY ESTABLISHED--

19

REPORTING REQUIREMENTS.--

20

A. The [~~secretary of state~~] land grant council

21

shall establish the "New Mexico community land grant registry".

22

B. A community land grant organized and governed

23

pursuant to Chapter 49, Article 1 or 4 NMSA 1978 and operating

24

as a political subdivision of the state shall register its

25

bylaws and a list of current officers with the [~~secretary of~~

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2 ~~state]~~ land grant council. The board of trustees of that land  
3 grant shall notify the ~~[secretary of state]~~ land grant council  
4 of the names and positions of the land grant's elected or  
5 appointed officers upon their election or appointment.

6 C. Community land grants organized and operating  
7 pursuant to special statutes or other general statutes may also  
8 register their bylaws and lists of officers with the ~~[secretary~~  
9 ~~of state]~~ land grant council.

10 D. A community land grant that registers in  
11 accordance with ~~[Subsections]~~ Subsection B or C of this section  
12 may request the ~~[secretary of state]~~ land grant council to keep  
13 on file the originals or copies of current or historical  
14 documents or maps submitted by the board of trustees to the  
15 ~~[secretary of state]~~ land grant council; provided that the  
16 ~~[secretary of state may]~~ land grant council shall store ~~[such]~~  
17 the originals of historical documents and maps in the state  
18 archives and records center."

19 SECTION 2. Section 49-4-19 NMSA 1978 (being Laws 2007,  
20 Chapter 145, Section 18) is amended to read:

21 "49-4-19. REGISTRATION.--The board of trustees shall  
22 register its bylaws and a list of current officers with the  
23 ~~[secretary of state]~~ land grant council in accordance with the  
24 provisions of Section 49-1-23 NMSA 1978. The board of trustees  
25 shall notify the ~~[secretary of state]~~ land grant council of the  
names and positions of the land grant-merced's elected or



appointed officers upon their election or appointment."

**SECTION 3. TEMPORARY PROVISION.**--The secretary of state shall transfer to the land grant council the New Mexico community land grant registry, all associated records and all other records and documents submitted to the secretary of state pursuant to Sections 49-1-23 and 49-4-19 NMSA 1978.

SECTION 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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HOUSE BILL

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**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

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INTRODUCED BY

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FOR THE LAND GRANT COMMITTEE

9

10

AN ACT

11

RELATING TO LAND GRANTS; AMENDING CHAPTER 49, ARTICLE 1 NMSA

12

1978 TO INCLUDE THE TECOLOTE LAND GRANT-MERCED; AMENDING AND

13

REPEALING SECTIONS OF THE NMSA 1978.

14

15

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16

**SECTION 1.** Section 49-1-2 NMSA 1978 (being Laws 1907,

17

Chapter 42, Section 2, as amended) is amended to read:

18

"49-1-2. APPLICATION.--

19

A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall

20

apply to all land grants-mercedes confirmed by the congress of

21

the United States or by the court of private land claims or

22

designated as land grants-mercedes in any report or list of

23

land grants prepared by the surveyor general and confirmed by

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congress, but shall not apply to any land grant that is now

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managed or controlled in any manner, other than as provided in

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2 Sections 49-1-1 through 49-1-18 NMSA 1978, by virtue of any  
3 general or special act.

4 B. If a majority of the members of the board of  
5 trustees of a land grant-merced covered by specific legislation  
6 determines that the specific legislation is no longer  
7 beneficial to the land grant-merced, the board has the  
8 authority to petition the legislature to repeal the legislation  
9 and to be governed by its bylaws and as provided in Sections  
10 49-1-1 through 49-1-18 NMSA 1978.

11 C. The town of Tome land grant-merced, situated in  
12 Valencia county, confirmed by congress in 1858 and patented by  
13 the United States to the town of Tome, shall be governed by the  
14 provisions of Sections 49-1-1 through 49-1-18 NMSA 1978.

15 D. The town of Atrisco land grant-merced, situated  
16 in Bernalillo county, confirmed by the court of private land  
17 claims in 1894 and patented by the United States to the town of  
18 Atrisco in 1905, shall be governed by the provisions of  
19 Sections 49-1-1 through 49-1-18 NMSA 1978; provided that the  
20 board of trustees shall not have regulatory jurisdiction over,  
21 and the provisions of Chapter 49, Article 1 NMSA 1978 shall not  
22 apply to or govern, any lands or interests in real property the  
23 title to which is held by any other person, including a public  
24 or private corporation, partnership or limited liability  
25 company.

E. The Tecolote land grant-merced, also known as

.190612.1

the town of Tecolote, situated in San Miguel county, confirmed by congress in 1858 and patented by the United States to the town of Tecolote in 1902, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978."

**SECTION 2. REPEAL.**--Sections 49-10-1 through 49-10-6 NMSA 1978 (being Laws 1903, Chapter 77, Sections 1 through 6, as amended) are repealed.

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SENATE BILL

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**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

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INTRODUCED BY

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FOR THE LAND GRANT COMMITTEE

9

10

AN ACT

11

RELATING TO LAND GRANTS; GRANTING POLITICAL SUBDIVISION STATUS

12

TO THE SAN ANTONIO DEL RIO COLORADO LAND GRANT-MERCED.

13

14

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15

SECTION 1. Section 49-1-2 NMSA 1978 (being Laws 1907,

16

Chapter 42, Section 2, as amended) is amended to read:

17

"49-1-2. APPLICATION.--

18

A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall

19

apply to all land grants-mercedes confirmed by the congress of

20

the United States or by the court of private land claims or

21

designated as land grants-mercedes in any report or list of

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land grants prepared by the surveyor general and confirmed by

23

congress, but shall not apply to any land grant that is now

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managed or controlled in any manner, other than as provided in

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Sections 49-1-1 through 49-1-18 NMSA 1978, by virtue of any

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general or special act.

2           B. If a majority of the members of the board of  
3 trustees of a land grant-merced covered by specific legislation  
4 determines that the specific legislation is no longer  
5 beneficial to the land grant-merced, the board has the  
6 authority to petition the legislature to repeal the legislation  
7 and to be governed by its bylaws and as provided in Sections  
8 49-1-1 through 49-1-18 NMSA 1978.

9           C. The town of Tome land grant-merced, situated in  
10 Valencia county, confirmed by congress in 1858 and patented by  
11 the United States to the town of Tome, shall be governed by the  
12 provisions of Sections 49-1-1 through 49-1-18 NMSA 1978.

13           D. The town of Atrisco land grant-merced, situated  
14 in Bernalillo county, confirmed by the court of private land  
15 claims in 1894 and patented by the United States to the town of  
16 Atrisco in 1905, shall be governed by the provisions of  
17 Sections 49-1-1 through 49-1-18 NMSA 1978; provided that the  
18 board of trustees shall not have regulatory jurisdiction over,  
19 and the provisions of Chapter 49, Article 1 NMSA 1978 shall not  
20 apply to or govern, any lands or interests in real property the  
21 title to which is held by any other person, including a public  
22 or private corporation, partnership or limited liability  
23 company.

24           E. Notwithstanding the provisions of Subsection A  
25 to the contrary, the San Antonio del Rio Colorado land

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grant-merced, situated in Taos county, which claim was  
recommended for confirmation by surveyor general James K.  
Proudfit in 1874 and again in 1886 by surveyor general George  
W. Julian, but not confirmed by congress, shall be governed by  
the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978."

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SENATE JOINT MEMORIAL

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**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

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INTRODUCED BY

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8

FOR THE LAND GRANT COMMITTEE

9

10

A JOINT MEMORIAL

11

REQUESTING THAT THE UNITED STATES CONGRESS SUPPORT THE

12

ESTABLISHMENT OF THE CHIHENE NDE NATION OF NEW MEXICO PEOPLE AS

13

A RECOGNIZED NATIVE AMERICAN TRIBE.

14

15

WHEREAS, the people of Chihene Nde Nation of New Mexico

16

are the descendants of Squielloctero, El Compa, Ojos Coloradas,

17

Manta Negro, Victoriano Montoya, Denacio Montoya, Juan Jose

18

Compa, Cigarrito, Pisago Cabezon, Fuerte, Mano, Tebuca,

19

Costilla, Tucilito, Cristobal, Torres, Manuel Chirini, Antonio

20

Bibora, Anaya, Vicente, Ponce, Jose Domingo Tain, Manuelito,

21

Coyante, Nichindo, Ita'n, Yezcas, Antinio Mansisco, Matias,

22

Marcelo, Negrito, Cuentas Azules, Fusilito, Delgadito, Capitan

23

Simon, Mangas Coloradas, Cauchilla Negro, Blancito, Jose Nuevo,

24

Josecito, Sargento, Veinte Reales, Rinon, Dealgadito Largo,

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Fusho, Placera, Carrosero, Pajarito, Elias, Delante, Apache

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Soco, Camilio, Monica Zher, Refujia, Placeres, Tinajas and  
2 Victorio; and

3 WHEREAS, tribal members have reunited as an organization  
4 of Apache descendants of Chihene and Nde people that entered  
5 into peace accords with New Spain in the Janos district in  
6 1789, 1790 and 1792; and

7 WHEREAS, the same Nde people also entered into successive  
8 peace treaties with the Republic of Mexico in 1835, 1838, 1842  
9 and 1843; and

10 WHEREAS, the Nde people also entered into three treaties  
11 with the United States of America: on July 1, 1852 in Santa  
12 Fe, New Mexico; on April 7, 1853 at Fort Webster, New Mexico;  
13 and on June 9, 1855 at Fort Thorn, Dona Ana county, New Mexico;  
14 and including the peace compacts stemming from these treaties,  
15 which were monitored at Fort Thorn; and

16 WHEREAS, from the time of peace agreements between New  
17 Spain and the Chihene Nde Nation, including the Mimbres, Gila,  
18 Mogollon, Ojo Caliente and Warm Springs Apache, their ancestors  
19 resided on common Spanish land grants that were specifically  
20 identified as Apache rancherias of their people; and

21 WHEREAS, these common Spanish land grants include  
22 Rancheria de los Rincones, Rancheria de la Gallina, Rancheria  
23 de los Comales, Rancheria de los Corrales, Rancheria del Cobre,  
24 Rancheria de Mimbres, Rancheria de Gila, Rancho de Manta Negro,  
25 Rancho de Victoriano Montoya, Rancho de Cuchillo Negro, Rancho

.190624.1

1  
2 de Donaciano Montoya, Rancho de Juan Jose Galindo and, later,  
3 the Refugio civil colony; and

4 WHEREAS, the Rancho de Victoriano Montoya later became  
5 known as the Ojo Caliente Indian Reservation, established under  
6 United States jurisdiction in the 1870s; and

7 WHEREAS, these areas comprise much of southwest New Mexico  
8 south of Socorro on the west bank of the Rio Grande into  
9 northern Mexico, including lands in the Gila national forest,  
10 the Black range, the San Mateo range, the Mimbres range and the  
11 Florida range; and

12 WHEREAS, after the transition to United States of America  
13 jurisdiction over these lands, many of the Chihene Nde  
14 ancestors continued to farm and homestead lands within the  
15 Apache rancherias, with some also residing on Indian  
16 reservations, such as the Fort Thorn Southern Apache agency in  
17 Dona Ana county and the Gila agency, the Hot Springs agency and  
18 the Southern Apache agency in the Black and Mogollon ranges;  
19 and

20 WHEREAS, the people of Dona Ana and Mesilla petitioned the  
21 United States congress against forcing the peaceful "Dona Ana  
22 Apaches" to relocate to the Bosque Redondo in March 1865, as  
23 ordered by General James Carleton, to join the Mescalero,  
24 Jicarilla and Navajo people interned there; and

25 WHEREAS, after 1871, the Chihene Nde were no longer  
recognized as an Indian tribe under United States Indian

1  
2 policy, similar to the pueblo tribes in New Mexico, yet they  
3 continued to gather together in extended family groups, which  
4 is their traditional form of government, and lived together on  
5 homestead lands established under the Homestead Act of 1862 or  
6 in camps in traditional homelands throughout New Mexico; and

7 WHEREAS, after 1880, the United States government began a  
8 policy of forced removal of all Chiricahua Apaches from their  
9 homelands, shipping most of these bands of Chiricahua Apaches  
10 to Florida; and

11 WHEREAS, in order to resist this policy, many of the  
12 Chihene Nde ancestors followed a brother of Mangas Coloradas,  
13 who assumed the name Mangas Coloradas, to the Mescalero  
14 Jicarilla agency by 1882 and then to the Jicarilla agency when  
15 it was formed in 1887 in northern New Mexico, while others hid  
16 and blended in among the Hispanic population in southwest New  
17 Mexico and still others managed to maintain control of  
18 homestead lands until the beginning of the 1900s; and

19 WHEREAS, from 1899 through 1930, those Chihene Nde  
20 ancestors that were able to maintain ranches and farms on  
21 homestead lands within their former Spanish and Mexican land  
22 grants were displaced as their lands were methodically taken by  
23 the United States government for water, irrigation and other  
24 public works projects that took place throughout southwest New  
25 Mexico during that period, including the Elephant Butte dam;  
rerouting the Rio Grande through the Garfield, Salem and Hatch

.190624.1

1  
2 areas; and irrigation projects in the area of Lake Valley; and

3 WHEREAS, other land grant and homestead lands were also  
4 taken for the establishment and expansion of the Gila national  
5 forest and to lease for private mining operations; and

6 WHEREAS, the Indian Reorganization Act of 1934 changed  
7 United States policy relating to the definition of "Indian" to  
8 include all people indigenous to the United States, including  
9 settled and farming indigenous communities, allowing pueblo  
10 tribes in New Mexico to be recognized as Indian tribes; and

11 WHEREAS, due to complete displacement from their lands  
12 immediately prior to the Indian Recognition Act of 1934, the  
13 Chihene Nde ancestors were working on Indian civilian  
14 conservation corps and bureau of reclamation public works  
15 projects throughout the southwest, including the Elephant Butte  
16 dam, the Hoover dam, the San Gabriel dam and other irrigation  
17 or agriculture projects, and were no longer in a single  
18 geographic area and thus unable to reorganize under the 1934  
19 act; and

20 WHEREAS, New Mexico pueblo tribes, such as Tesuque,  
21 Pojoaque and Tortugas, have experienced very similar histories  
22 in the transition from Spanish and Mexican rule to United  
23 States jurisdiction; and

24 WHEREAS, the Chihene Nde ancestors have always maintained  
25 a presence in their traditional homeland and, in most cases,  
continue to this day to hold federal patents issued for their

.190624.1

homestead lands taken between 1899 and 1930; and

WHEREAS, since the 1930s, many individual descendants of the Chihene Nde ancestors and their families have worked individually to preserve their culture and heritage and have diligently worked to remind everyone that they are still here, living as a distinct people with a common history and culture; and

WHEREAS, the Chihene Nde people have unified again as a tribal organization, called the Chihene Nde Nation of New Mexico, a New Mexico domestic nonprofit organization, and all of its members have joined in a collective effort to work to maintain culture, language and traditions and ultimately to achieve the goal of re-recognition of the Chihene Nde people as a distinct American Indian tribe;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the United States congress be requested to support reestablishment of the Chihene Nde Nation of New Mexico as a federally recognized Native American tribe; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the New Mexico congressional delegation.